



CRM-M-31429-2022

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-31429-2022

Date of Decision:- 18.11.2025

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M/S THAKAR CHEMICALS LTD.& OTHERS**.....Petitioners****Versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Rakesh Verma, Advocate and
Mr. Manish Verma, Advocate
for the petitioners.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. for quashing of the complaint No.COMA-41 of 2017 dated 11.12.2017 (Annexure P-1) registered under Sections 3(k)(I), 17, 18, 33 and 29 of Insecticides Act, 1968 read with Rule 27(5) of Insecticides Rules, 1971 titled as State through Insecticides Inspector Vs. M/s Sandhu Agro Chemicals & others, the summoning order dated 09.02.2021 (Annexure P-2) and all subsequent proceedings arising therefrom.

2. The brief facts of the case are that on 17.07.2012 one Sarwan Kumar, Insecticide Inspector visited the premises of M/s Sandhu Agro Chemicals, Muktsar Road, Near FCI Godown, Jalalabad (W) and drew a sample of Monocrotophos 36% SL, bearing Batch No.951 manufacturing date February, 2012 and expiry date July, 2013 250 ML x 3 parts were put

in other containers for sample purpose of analysis which were further put in

three polythene bags separately. Then these polythene bags were put in three separate cloth bags. The manufacturer and supplier was alleged to be the petitioner No.1-Company.

3. The samples were sent for analysis and the report dated 23.07.2012 of the Public Analyst showing the sample to be misbranded. The Public Analyst report dated 09.08.2012 is attached as Annexure P-3 to the petition.

4. After the completion of the usual formalities, a complaint dated 11.12.2017 was instituted in the Court of Sub Divisional Judicial Magistrate, Jalalabad (W) on the basis of which the accused came to be summoned to face trial. The copy of the complaint dated 11.12.2017 and summoning order dated 09.02.2021 passed by the SDJM, Jalalabad (W), are attached as Annexures P-1 & P-2 respectively.

5. The aforementioned complaint dated 11.12.2017 (Annexure P-1) and summoning order dated 09.02.2021 (Annexure P-2) are under challenge in the present petition.

6. The learned counsel for the petitioners contends that there has been a delay in filing of the complaint of as much as 05 years, 03 months and 28 days. The offence under the Act is punishable by a maximum of 02 years imprisonment and therefore, the complaint could have been filed only within 03 years from the date of knowledge of the commission of the offence. The report of the public analyst was available on 09.08.2012 and the complaint was instituted on 11.12.2017. Even if the period between 28.01.2014 (date on which the sanction was sought from the appropriate authority) to the time sanction was granted on 17.12.2016 (by sanctioning authority) was excluded, even then, the complaint was hopelessly time

barred. Reliance is placed on the judgments in the cases of *M/s Cheminova India Ltd. & another Vs. State of Punjab & another, 2021(3) R.C.R. (Criminal) 750, M/s Doaba Seed Store & another Vs. State of Punjab, 2018(4) Law Herald 3396, M/s Insecticides India Ltd. & another Vs. State of Punjab, CRM-M-4744-2018, decided on 16.11.2018* and *Zimidara Kheti & another Vs. State of Punjab, 2019(1) R.C.R. (Criminal) 288.*

7. On the other hand, the learned State counsel while not disputing the aforementioned proposition of law contends that the nature of the allegations levelled against the petitioners do not entitle them to any relief and therefore, the present petition is liable to be dismissed.

8. I have heard the learned counsel for the parties at length.

9. Before proceeding in the matter, it would be apposite to examine the relevant provisions of law in this regard:-

Section 29 of the Insecticides Act, 1968, reads as under:-

29. Offences and punishment.-(1) Whoever,-

(a) imports, manufactures, sells, stocks or exhibits for sale or distributes any insecticide deemed to be misbranded under sub-clause (i) or sub-clause (iii) or sub-clause (viii) of clause (k) of section 3; or

(b) imports or manufactures any insecticide without a certificate of registration; or

(c) manufactures, sells, stocks or exhibits for sale or distributes an insecticide without a licence; or

(d) sells or distributes an insecticide, in contravention of section 27; or

(e) causes an insecticide, the use of which has been prohibited under section 27, to be used by any worker; or

(f) obstructs an Insecticide Inspector in the exercise of his powers or discharge of his duties under this Act or the rules made thereunder, [shall be punishable—

(i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both;

(ii) for the second and a subsequent offence, with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifteen thousand rupees but which may extend to seventy-five thousand rupees, or with both.]

(2) Whoever uses an insecticide in contravention of any provision of this act or any rule made thereunder shall be punishable with fine [which shall not be less than five hundred rupees but which may extend to five thousand rupees, or imprisonment for a term which may extend to six months, or with both].

(3) Whoever contravenes any of the other provisions of this Act or any rule made thereunder or any condition of a certificate of registration or licence granted thereunder, shall be punishable—

(i) for the first offence, with imprisonment for a term which may extend to [one year, or with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees, or with both],

(ii) for the second and a subsequent offence, with imprisonment for a term which may extend to [two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both].

(4) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published in such newspapers or in such other manner as the court may direct.

Section 468 of the Cr.P.C. reads as under:-

468. *Bar to taking cognizance after lapse of the period of limitation.*-(1) *Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub- section (2), after the expiry of the period of limitation.*

(2) *The period of limitation shall be-*

(a) *six months, if the offence is punishable with fine only;*

(b) *one year, if the offence is punishable with imprisonment for a term not exceeding one year;*

(c) *three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years.*

(3) *For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]*

Section 469 of the Cr.P.C. reads as under:-

469. *Commencement of the period of limitation.*-(1) *The period of limitation, in relation to an offender, shall commence,-*

(a) *on the date of the offence; or*

(b) *where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or*

(c) *where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.*

(2) *In computing the said period, the day from which such*

period is to be computed shall be excluded.

Section 470 of the Cr.P.C. reads as under:-

470. Exclusion of time in certain cases.-(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts' and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.- In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender-

(a) has been absent from India or from any territory outside India which is under the administration of the

Central Government, or

(b) has avoided arrest by absconding or concealing himself, shall be excluded.

Section 473 of the Cr.P.C. reads as under:-

473. Extension of period of limitation in certain cases.- Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

10. It would also be relevant to examine the various judgments on the issue of limitation.

The Hon'ble Supreme Court in the case of **M/s Cheminova India Ltd.** (supra), held as under:-

“10. In the present case, it is not in dispute, the complainant-2nd respondent has received the report of analysis on 14.03.2011 from the Insecticide Testing Laboratory, Ludhiana and the complaint was lodged on 25.03.2014 which is beyond a period of three years from 14.03.2011. The only submission of the learned counsel for the State is that further report from the Central Insecticide Testing Laboratory was received on 09.12.2011 which is the conclusive evidence of the facts, as such, the complaint is within the period of limitation. We are not convinced with such submission made by learned counsel for the State. When it is clear from the language of Section 469, Cr.PC that the period of limitation shall commence on the date of offence, there is no reason to seek computation of limitation only from the date of receipt of report of the Central Insecticide Testing Laboratory, Faridabad. As per the procedure prescribed under the Statute, i.e., Insecticide Act, 1968 and the rules made thereunder, the Insecticide Testing Laboratory,

Ludhiana was the competent authority to which the sample was sent on 17.02.2011, after drawing on 10.02.2011, and the report of analysis was received on 14.03.2011, as such the said date is said to be the crucial date for commencement of period of limitation. By virtue of the said report received on 14.03.2011 which states that the active ingredient of the sample was only to the extent 34.70% as against the labelled declaration of 40%, it is clear that it is the date of offence allegedly committed by the accused. Merely because a further request is made for sending the sample to the Central Insecticide Testing Laboratory, as contemplated under Section 24(4) of the Act, which report was received on 09.12.2011, receipt of such analysis report on 09.12.2011 cannot be the basis for commencement of limitation. The report of analysis received from the Insecticide Testing Laboratory, Ludhiana on 14.03.2011 itself indicates misbranding, as stated in the complaint, thus, the period of limitation within the meaning of Section 469, Cr.PC commences from 14.03.2011 only. In that view of the matter, we are clearly of the view that the complaint filed is barred by limitation and allowing the proceedings to go on, on such complaint, which is ex facie barred by limitation is nothing but amounts to abuse of process of law. Though the learned counsel has also raised other grounds in support of quashing, as we are persuaded to accept his submission that complaint filed is barred by limitation, it is not necessary to deal with such other grounds raised.”

(emphasis supplied)

This Court in the case of **M/s Doaba Seed Store** (supra), held

as under:-

13. In Sanjay Kumar’s case (supra), Hon’ble Supreme Court held that the limitation to file complaint starts from the date of receipt of report of Public Analyst and not from the date of collection of sample by the Drug Inspector.

Similarly, this Court in Om Parkash Aggarwal's case (supra), held that the limitation for filing a complaint under the Act is three years from the date of receipt of State Public Analyst Report and the complaint instituted after a period of three years is barred under Section 468 Cr.P.C., 1973.

14. In the case in hand, the sample was drawn on 18.07.2012 and the analysis report was received on 22.08.2012, whereas the complaint was filed in the Court on 01.07.2016, as is apparent from Annexure P-1. Therefore, this Court finds that there appears to be substance in the argument of learned counsel for the petitioners. Merely because the sample was sent for a second laboratory test on the request of accused is of no help for the complainant to delay the filing of the complaint. The petitioners cannot be held responsible for the delay, if any, as the same is solely at the behest of the complainant.

15. It would be pertinent to mention here that though the petitioners could have availed the remedy of revision, but when from the face of it, this Court finds that the complaint was filed by the complainant beyond the period of limitation, in case the said complaint is allowed to be continued, it would be a futile exercise. Therefore, this Court while invoking the provisions of Section 482 Cr.P.C. 1973 can entertain the present petition. In this regard, this Court finds support from Prabhu Chawla Versus State of Rajasthan and another 2016(4) RCR (Criminal) 270, wherein Hon'ble Supreme Court has held that a petition for quashing the order of Magistrate is maintainable and the availability of remedy under Section 397 Cr.PC would not make a petition under Section 482 Cr.PC not maintainable.

16. Thus, for the reasons stated hereinabove, the present petitions are allowed and there being a statutory bar of limitation, this Court has no hesitation to quash the

complaint dated 01.07.2016 (Annexure P-1) as well as the summoning order dated 04.08.2016 (Annexure P-3) passed by learned Chief Judicial Magistrate, SBS Nagar.”

(emphasis supplied)

In the case of **M/s Insecticides India Ltd.** (supra), held as

under:-

6. Having given thoughtful consideration to the rival submissions made by learned counsel for the parties, this Court finds merit in the instant petition for the reasons to follow:-

1. Undisputedly, the premises of M/s Sitara Lal Raghvir Parkash was raided by the complainant on 16.07.2011. Report qua misbranding of first sample was received on 25.07.2011 and second report from Faridabad authority was received on 01.02.2012. The impugned complaint was filed on 22.07.2015 i.e. after a period of 3 years, 5 months and 10 days. The period of limitation for filing the complaint under sub clause 2(c) of Section 468 Cr.P.C, 1973 is three years. Therefore, after expiry of three years, the impugned complaint could not have been filed. Sanction letter (P-3) shows that the complainant applied for sanction on 19.08.2014 and the same was granted on 10.11.2014 i.e. within three months. In case, the period of three months is excluded, the impugned complaint filed on 22.07.2015 can still easily be declared being hopelessly time barred.

7. In the rulings referred above, it is held that limitation to prosecute under the Act starts from the date of receipt of report of public analysts and not from the date of collection of sample and if, the complaint is filed beyond the period of limitation of three years, the same is not maintainable.”

(emphasis supplied)

In the case of **M/s Zimidara Kheti** (supra), held as under:-

10. Having heard the learned counsel for the parties, this Court finds adequate substance in the argument raised by

learned counsel for the petitioners. A bare perusal of the facts of the case on record shows that the report of the Government Analyst had been received by the complainant on 26.06.2007. Even the sanction for prosecution, though applied too belatedly on 12.01.2010, was received on 17.09.2010 itself. Hence as per the mandate of Section 468(3) of Cr.P.C; and judgment of Supreme Court in the case of State of Rajasthan(Supra) complaint in the present case could have been filed, at the best, within a period of 03 years from the date of receipt of report of the Government Analyst. However, the complaint has been filed after 08 years from the said date. Hence, the complaint in the present case is hopelessly time barred.

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13.Since taking of cognizance by the Court itself is prohibited; in case the complaint not filed within the prescribed period, therefore, the subsequent proceeding in the form of summoning, order also stands vitiated. This Court has already considered this aspect in the case of Sohan Singh and others(supra). The case of the present petitioner is further fortified by the fact that in the same complaint, the manufacturer, who is primarily responsible for manufacturing of spurious insecticide, already stands discharged on the basis of complaint being time barred only. Learned State counsel has not brought on record anything to show that the State has even challenged that order in favour of the manufacturer. In view of this, there is no legal justification, whatsoever, for continuing the proceedings against the petitioners; who happens to be only a retailer of the product; found to be spurious.”

(Emphasis supplied)

11. A combined reading of the aforementioned provisions of law and the judgments would make it apparent that the period of limitation begins from the date of the receipt of the report of the Public Analyst. The period of limitation is 03 years from the said date. However, the time spent

in obtaining sanction is to be excluded.

12. Coming back to the facts of the present case, it would be relevant to note certain dates and events which have been enumerated below in a tabulated form:-

<i>Raid/shop visit/sample collected</i>	<i>17.07.2012</i>	--
<i>Sent for sampling</i>	<i>23.07.2012</i>	--
<i>1st sample of Insecticide Quality Control Laboratory, Bathinda.</i>	<i>09.08.2012</i>	<i>Annexure P-3</i>
<i>2nd Sample of Central Insecticides Laboratory, NH-IV, Faridabad.</i>	<i>15.10.2012</i>	--
<i>Sanction sought from Chief Agriculture Officer (CAO) for prosecution</i>	<i>28.01.2014</i>	--
<i>Sanction for prosecution granted by JDA (PP) Punjab.</i>	<i>17.12.2016</i>	<i>Annexure P-4</i>
<i>Complaint No.COMA-41 of 2017 dated 11.12.2017 under Sections 3(k)(I), 17, 18, 33 and 29 of Insecticides Act, 1968 read with Rule 27(5) of Insecticides Rules, 1971</i>	<i>11.12.2017</i>	<i>Annexure P-1</i>
<i>Summoning order</i>	<i>09.02.2021</i>	<i>Annexure P-2</i>

13. In the instant case, the sample was taken on 17.07.2012. The report of the Public Analyst was made available is dated 09.08.2012 (Annexure P-3). The sanction for prosecution was applied on 28.01.2014 and was granted on 17.12.2016. The sanction was received by the CAO on 17.12.2016. Approximately 02 years, 10 months and 19 days elapsed between when sanction was sought and when it was granted. The period of limitation expired on 13.08.2015. However, the complaint was instituted only on 11.12.2017 after a gap of 05 years, 03 months and 28 days from the date of the receipt of the report of the Public Analyst. Therefore, the complaint case No.COMA-41 of 2017 dated 11.12.2017 (Annexure P-1) is

hopelessly barred by time.

14. In view of the aforementioned discussion, the present petition is allowed and the complaint case No.COMA-41 of 2017 dated 11.12.2017 (Annexure P-1) under Sections 3(k)(I), 17, 18, 33 and 29 of Insecticides Act, 1968 read with Rule 27(5) of Insecticides Rules, 1971, the summoning order dated 09.02.2021 (Annexure P-2) along with all subsequent proceedings arising therefrom are hereby quashed.

18.11.2025

Jitesh

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:-
Whether Reportable:-

Yes/No
Yes/No