



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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Date of decision: 06.05.2025

1. CRM-M-38536-2021 (O&M)

Sohan Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-21288-2022 (O&M)

Devendra Kumar Sharma and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Verma, Advocate
and Mr. Manish Verma, Advocate
for the petitioner(s) in both the cases.

Mr. Rishabh Singla, AAG, Punjab
in CRM-M-38536-2021.

Mr. Ramesh Kumar Ambavta, AAG, Haryana
in CRM-M-21288-2022.

HARPREET SINGH BRAR J. (Oral)

1. This common judgment shall dispose of both the abovementioned petitions as an identical issue of law is involved. However, for the sake of brevity, the facts are taken from CRM-M-38536-2021.

2. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking



quashing of criminal complaint bearing No. 21 dated 06.03.2019 registered under Section 3(k)(i), 17, 18 and 33 punishable under Section 29 of the Insecticide Act, 1968 (hereinafter 'the Act') read with Rule 27(5) of the Insecticides Rules, 1971 titled '*State of Punjab vs. M/s. Ajay Agro Chemical and others*' pending before learned Chief Judicial Magistrate, Ferozepur as well as summoning order dated 06.03.2019 (Annexure P-2), and all subsequent proceedings arising therefrom.

3. Briefly, the facts, as alleged are that on 12.07.2017, the Insecticide Inspector, the complainant, visited the premises of M/s Ajay Agro Chemical, Ferozepur and drew samples of Chloropyriphos 20% EC, bearing batch No. VOIC16F. The said chemical was manufactured by M/s Vikas Organic Industries Corporation, Faridkot, where the petitioner is the Godown Incharge. The samples were sent for chemical analysis on 14.07.2017 to the State Insecticide Testing Laboratory, Amritsar and the same was found misbranded vide report dated 18.07.2017. A sample was also sent to the Central Insecticide Laboratory, Faridabad which also returned the same result. Consequent to the same, complaint(supra) was instituted.

4. Learned counsel for the petitioner *inter alia* contends that in this regard, no show cause notice has ever been served upon the firm of the petitioner or any of its employees by the Licensing Authority i.e. Deputy Director of Agriculture, Punjab. Further, nothing has been brought to the record to connect the sampled material with the petitioner or his firm as no invoice for purchase of the same has been



demonstrated. Moreover, the said firm had appointed Sudhir Kumar Pathak as the manager of the firm under Section 33 of the Act, which makes him directly responsible for the quality of the products. As a matter of fact, he is currently being proceeded against on behalf of the accused firm. Finally, the learned trial Court had not followed the drill of Section 202 Cr.P.C. before passing the summoning order dated 06.03.2019 (Annexure P-2). As such, the continuation of criminal prosecution against the petitioner would amount to abuse of process of law. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in ***Consumer Action Group vs. Cadbury India Ltd. and another (2000) 9 SCC 56.***

5. *Per contra* learned State counsel submits that the petitioner is the proprietor and Managing Director of the accused firm and therefore responsible for the conduct of its business. Further, the sample was found to be misbranded vide report dated 18.07.2017 by Insecticide Testing Laboratory, Amritsar and, also by Central Insecticides Laboratory, Faridabad on reanalysis. As such, the petitioner deserves to face trial and no interference by this Court is warranted.

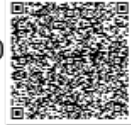
6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that no material has been brought to the fore to prove that the purchase of the misbranded insecticide was from the firm of the petitioner i.e. M/s Vikas Organic Industries Corporation. Additionally, there is no evidence available that connects the firm of the petitioner to the misbranded insecticide as it



remains unproven that the same was manufactured by it and thereafter sold to M/s Ajay Agro Chemical. The specific contention in Para 9 of the petition regarding having any invoice for purchase of misbranded material has not been controverted in reply filed by respondent. Since it is not established that the insecticide found on the premises of M/s Ajay Agro Chemical was indeed manufactured by and purchased from M/s Vikas Organic Industries Corporation, it would be against objective standards of reason and justice to prosecute the petitioner.

7. In a similar matter, where no cash memo or invoice was put forth to establish sale of misbranded fertiliser, a Co-ordinate bench of this Court in *S.C. Sharma and another vs. State of Haryana and others 2003(1) R.C.R.(Criminal) 788*, speaking through Justice V.M. Jain, made the following observations:

“5. There is considerable force in these submissions of the learned counsel for the petitioners. From a perusal of the complaints in both the petitions, it would be clear that neither there is any reference to the purchase of the fertilizers by the complainant against any cash memo from the shop of accused No. 1, namely Ram Nath @ Pappi, nor there is any reference that any sample of the fertilizer was drawn nor there is any reference that any sample of the fertilizer was ever supplied to the Analyst for the purpose of analysis. Only vague and general allegations have been levelled by the complainant against the various accused, including the accused petitioners. In 2000(1) RCR 549 (SC) (supra), it was held by the Hon'ble Supreme Court, in a case concerning Prevention of Food Adulteration Act, 1955, that there was nothing in the complaint, which could justify issuing of process against the accused, since the cash memo did not show sale of any mis-branded food article. It was held that the trial Court ought not to have



*taken cognizance of the complaint which did not even lay down proper factual matrix for proceeding further. It was found that in the complaint there was no mention, whatsoever, of the brand name of the biscuits which were allegedly sold by the accused to the complainant and under those circumstances it was not possible to maintain the complaint alleging mis-branding unless the cash memo which was made the basis of the complaint contained the brand name of the sold product. In the present case, as referred to above, there was no reference to the purchase of fertilizers by the complainant against cash memo. **Besides that, no cash memo was attached alongwith the complaint nor any cash memo was produced during preliminary evidence. In the absence of any allegation regarding the purchase of fertilizer against a cash memo and in the absence of any material on record to show as to fertilizers of which brand names were purchased by the complainant from Ram Nath @ Pappi (alleged dealer), in my opinion, it could not be said that the accused petitioners had contravened the provisions of Essential Commodities Act or the Fertilizer (Control) Order, nor it could be said that they had committed any other offence punishable under the Indian Penal Code. This is especially so when there is no material on record to show that the complainant had purchased the fertilizers manufactured by the accused petitioners from accused No. 1 Ram Nath @ Pappi.***” (emphasis added)

8. In view of the discussion and judgment referred above, this Court finds continuation of criminal prosecution against the petitioner to be inappropriate. Accordingly, both the above mentioned petitions are allowed. Consequently,

- (i) The criminal complaint bearing No. 21 dated 06.03.2019 registered under Section 3(k)(i), 17, 18 and 33 punishable under Section 29 of the Insecticide Act, 1968



(hereinafter ‘the Act’) read with Rule 27(5) of the Insecticides Rules, 1971 titled ‘*State of Punjab vs. M/s. Ajay Agro Chemical and others*’ pending before learned Chief Judicial Magistrate, Ferozepur as well as summoning order dated 06.03.2019 (Annexure P-2), and all subsequent proceedings arising therefrom are quashed qua the petitioner in CRM-M-38536-2021.

(ii) The criminal complaint bearing No.75 dated 03.12.2020 registered under Section 29 of the Insecticide Act titled as ‘*State of Haryana vs. Raj Rani and others*’ pending adjudication before learned Chief Judicial Magsitrate, Panchkula, summoning order dated 03.12.2020 (Annexure P-2) and all subsequent proceedings arising therefrom are quashed qua the petitioners in CRM-M-21288-2022.

9. Pending miscellaneous application(s), if any shall also stand disposed of.

10. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

06.05.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No