



CRM-M-35523-2024

-1-

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

CRM-M-35523-2024

Decided on: 05.04.2025(O&M)

M/s Adama India Private Limited and others Petitioners

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Nitin Thatai, Advocate, for the petitioners.

Mr.Karunesh Kaushal, AAG, Punjab.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of Complaint bearing No.5 dated 06.02.2019 titled as State through Sh.Balwinder Singh, Insecticide Inspector, Makhu, Tehsil Zira, District Ferozepur vs. M/s Bhullar Kheti Store & others, under Sections 3(k)(i), 17, 18, 29 and 33 punishable under Section 29 of the Insecticides Act 1968 (for short, 'the Act') with Rules 27(5) of Insecticide Rules 1971 and summoning order dated 06.02.2019 passed by learned Judicial Magistrate First Class, Zira, District Ferozepur along with all other consequential proceedings arising thereon.

2. Succinctly, facts of the case are that complainant Balwinder Singh, Insecticide Inspector, Makhu filed the present complaint under Clause (27) of the Insecticides Rules 1971. The complainant visited the shop of M/s Bhullar Kheti Store, Fatehgarh Sabhra, District Ferozepur on 21.12.2017 and Sukhwant Singh proprietor of the firm was present at the time of inspection. They were given intimation in writing that complainant is the Insecticide Inspector. He inspected the shop and stock register in



respect of Piroxofop-Propanyl (Clodinafop-Propargyl) 15% WP. The samples were taken and on weighing it came to be 160 grams of Piroxofop-Propanyl (Clodinafop-Propargyl) 15% WP having manufactured on 25.08.2016 and expiry date as 24.08.2018 was taken at random for the purpose of analysis against the receipt. Two sealed samples in its intact portion were deposited with Roop Lal, Agriculture Sub-Inspector, who sent one sample to Insecticide Quality Control Laboratory, Ludhiana vide letter dated 26.12.2017, whereas, other sealed sample remained in the custody of Agriculture Development Officer. From the analysis report, the sample taken was found misbranded with remarks **“The sample does not confirm to I.S. specification with respect to its percent active ingredient. Hence, the sample is misbranded.”** Copy of the analysis report was delivered to the dealer, distributor/the manufacture vide registered letters dated 13.02.2018. Dealer Sukhwant Singh availed the benefit of re-testing the sample under Section 24 of the Act, but the same was also declared as misbranded being having 8.8% instead of 15% WP active ingredient contents. As the samples taken from the insecticide was found to be misbranded, the petitioners were prosecuted for the offence under Sections 3(k)(i), 17, 18, 29 and 33 of the Act. On the presentation of the complaint, the petitioners were summoned by the trial Court vide summoning order dated 06.02.2019. Aggrieved by the same, the petitioners have approached this Court praying for quashing of the impugned complaint and the impugned summoning order.

3. Learned counsel for the petitioners has vehemently contended before this Court that the petitioners have been falsely and frivolously



prosecuted in the impugned complaint and thus, have been illegally summoned vide impugned order. The main thrust of argument raised by counsel for the petitioners is primarily on the grounds that the allegations levelled against the petitioners are absolutely false, frivolous and baseless and without any iota of truth. He has submitted that as per law settled, the summoning order is required to be passed under Section 204 Cr.P.C., which is to be based on the opinion and reasons assigned by the Court duly fortified by the process of reasoning clearly discernible from the order. He submits that provisions of Section 202 Cr.P.C. have not been taken into consideration by learned trial Court before summoning the petitioners. He has submitted that petitioner No.2 had resigned as Director of the company on 28.05.2017 and thus, on the date of inspection he was not even associated with the company and thus, he submits that he could not have been arrayed as accused at all. He submits that the impugned summoning order is violative of Section 33 of the Act. He further contends that the collection of samples by the respondents is violative of the procedure as enumerated under Section 22(5) of the Act. He has submitted that the petitioners have been impleaded as accused simply being the Directors of the company whereas they were not even responsible for the conduct of business or quality control of the said insecticide. He has relied upon the judgments of this Court **M/s Unique Farm Aid Pvt. Ltd. and others vs. State of Punjab**, Law Finder Doc Id # 2225183, **M/s Pepsi Foods Ltd. vs. Special Judicial Magistrate**, 1997(4) RCR (Criminal) 761, **Sanjeev Kumar Sharma vs. State of Punjab**, 2006(3) RCR (Criminal) 894, **Sohan Singh vs. State of Punjab**, Law Finder Doc Id # 2186704 and **M/s**

**S.S. Fertilizer and another vs. State of Punjab, 2008(3) RCR (Criminal)**

210 and has submitted that the impugned summoning order has been passed in a mechanical manner without application of judicial mind, which is totally in violation of the law settled. He, thus, submits that the impugned summoning order being cryptic and non-speaking, deserves to be set aside.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioners. He has submitted that the Insecticide Inspector inspected the shop of the dealer as per the procedure prescribed under the Act. He submits that two samples were taken in accordance with law and as per report received on analysis, the samples were found to be misbranded. He submits that the respondents availed the opportunity of re-testing, but the samples failed in re-analysis as well. It has been submitted that the petitioners being responsible persons for the conduct of the business of the company, have been rightly prosecuted. He, thus, submits that the summoning order suffers from no illegality and hence, the present petition being devoid of any merit deserves to be dismissed.

5. After hearing learned counsel for the parties and perusing the record, it is inferred that the Insecticide Inspector inspected the shop of the dealer on 21.12.2017. Samples of Piroxofop-Propanyl (Clodinafop-Propargyl) 15% WP were taken against the receipt. Manufacturing date of samples was 25.08.2016 whereas the expiry date was 24.08.2018. The samples were declared misbranded in both analysis. However, main thrust of arguments raised by counsel for the petitioners is that the impugned summoning order is cryptic and non-speaking order. Perusal of the impugned summoning order would reveal that learned trial Court had not



appreciated the contentions raised by counsel for the petitioners. It is a settled proposition of law that a person cannot be summoned in a mechanical manner and the Court is required to record the reasons for summoning the accused. Hon'ble Supreme Court in case of **M/s Pepsi Foods Ltd.**'s case (supra) laid down the golden standard for summoning of a person as an accused in a Court case. Paragraph 28 therein is noteworthy and it reads thus:

“26. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. it is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

6. Thus, this Court finds the impugned summoning order is a non-speaking order which has been passed in a mechanical manner. Hence, the impugned summoning order dated 06.02.2019 is set aside. The case is remanded to the trial Court with a direction to pass a fresh order after



CRM-M-35523-2024

-6-

issuing notice to both the parties and taking into consideration the arguments raised in the light of the law settled within a period of two months from the date of receipt of certified copy of this order.

7. Present petition stands disposed of in above-said terms.

05.4.2025
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No