

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

206

CRM-M-41119-2019

Date of decision: 03.07.2025

KULJITPAL SINGH AND ANOTHER**...Petitioners****VERSUS****STATE OF PUNJAB****...Respondent****CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Amit Arora, Advocate
for the petitioners.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of Complaint No.30/2015 dated 17.04.2015 titled as State through Insecticide Inspector Vs. M/s Satguru Kheti Store and others filed under Sections 3(K)(1), 17, 18, 29 & 33 of Insecticides Act, 1968 & Rules 1971 in the Court of learned Chief Judicial Magistrate, Tarn Taran and the summoning order dated 17.04.2015 (Annexure P-2) and the consequential proceedings arising therefrom as being sheer abuse of process of law.

2. Learned counsel for the petitioner submits that the petitioner is a licence holding dealer, who is protected under the Section 30 (3) of the Insecticides Act, 1968 as there is no allegation in the complaint against him that he tampered with the seal of the containers of insecticides from which samples were drawn as he also received it from the FIL Industries Ltd. (Manufacturing Company). It is an admitted fact as has been argued by Mr.

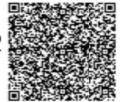


Arora that samples drawn from the packets itself, were neither opened nor loose in any manner and to that effect the submissions get corroborated from the contents of complaint dated 17.04.2015 (Annexure P-2). Reference has been made by the petitioner while relying on the judgments rendered by this Court in CRM-M-43006-2000 titled as *M/s. Sidhu Brothers Store Vs. State of Punjab*, CRM-M-13530-2000 titled as *M/s. Sherpuria Sales Corporation Vs. State of Punjab* and CRM-M-25377-2017 titled as *Darshan Singh and another Vs. State of Punjab*, wherein similar complaints were quashed on the ground that the dealers are protected under Section 30(3) of the Insecticides Act, 1968.

3. He further submits that the petitioner is a sole proprietor of M/s. Satguru Kheti Store and merely a supplier thus cannot be held liable of selling misbranded insecticides as he is not the manufacturer of the same.

4. It is further submitted that the expiry of the sealed insecticide was recorded as 31 October 2014 and the complaint was filed on 17th April 2015 which in itself renders the complaint frivolous, illegal and liable to be quashed as the settled law emanates that the complaint has to be filed within the period of the shelf life of the product.

5. Learned counsel for the State has opposed the present petition and submitted that the complaint was filed after following due procedure of rest sampling and analysis, and the insecticide in question was tested by by the State and Central Insecticide Testing Laboratory vide reports dated 31.12.2013 and 01.08.2014 respectively, declaring stock in possession of the petitioner as misbranded and he is therefore liable to face prosecution under the relevant provisions of the Act.

**Analysis:**

6. This Court is conscious of the fact that the petitioner is a valid licence holder for pesticide bearing number INS/512/2013/T issued by the Chief Agriculture Officer, Tarn Taran and admittedly the samples drawn from his shop were sealed with it's original packing intact leaving no scope for any kind of tampering and thereby enlarging him protection under Section 30(3), Insecticide Act, 1968. The same can be referred as under:

Section 30(3) A person not being an importer or a manufacturer of an insecticide or his agent for the distribution thereof, shall not be liable for a contravention of any provision of this Act, if he proves-

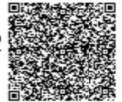
(a) that he acquired the insecticide from an importer or a duly licensed manufacturer, distributor or dealer thereof:

(b) that he did not know and could not, with reasonable diligence, have ascertained that the insecticide in any way contravened any provision of this Act; and

(c) that the insecticide, while in his possession, was properly stored and remained in the same state as when he acquired it.

7. To further strengthen the argument raised by the petitioner, dependence can be placed on the judgment passed by this Court in ***Darshan Singh and another Vs. State of Punjab*** bearing CRM-M No.25377 of 2017 wherein it was held as under:

"8. Having heard the learned counsel for the parties and perusing the record, this Court finds that the submission of the learned counsel for the petitioners that the sample was drawn from the original packaging is duly verified from Form XX; which was prepared by the Sample Drawing Inspector on the spot itself. Hence, even on the face of it, this is clear that the sample was drawn from the original packing. Therefore, in view of the judgments mentioned above, which has been relied upon by learned counsel for the petitioners; the complaint



against the petitioners could not be sustained. The petitioners, accordingly, would be entitled to protection of Section 30(3) of the Insecticide Act.

9. *This Court also finds merit in the argument of the counsel for the petitioners that there is not even any allegation against the petitioners that they tampered with the container of the insecticide from which the sample was drawn. The petitioners have duly brought on record the fact that they are the valid licensee, having license No.780, as renewed from time to time. under the Insecticide Act. Hence the petitioners cannot be charged or not having the license for possessing the material per se. In view of the fact and circumstances delineated above, neither the petitioner can be said to be dealing with the product without license nor can the petitioners be deprived of the protection under Section 30(3) of the Insecticide Act. Therefore, the Complaint against the petitioners and the consequent proceedings against them deserve to be quashed.*

10. *However, learned counsel for the respondents have pointed out that even the manufacturer has been arrayed as an accused in the present Complaint; on the basis of the same reports of the Public Analyst. Therefore, it is made clear that merely because the petitioners are found to be having protection under Section 30(3) of the Insecticide Act would not absolve manufacturers of their liability for the prosecution initiated against them.*

11. *In view of the above, the present petition is allowed. The Complaint and the consequent proceedings qua the petitioners are quashed."*

8. Given that the inspection at the shop of the petitioner was conducted by the Agriculture Development Officer on 12.12.2013 and samples were drawn on the same date and were further sent to State



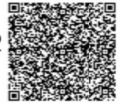
Insecticide Testing Laboratory for chemical examination and the report was received on 31.12.2013, after lapse of 20 days, it was disclosed that the active ingredient content was found to be 12.92% in contravention to the specified 15%. Further the samples were sent for retesting to the Central Insecticide Laboratory, Faridabad on 05.06.2014 which was received by laboratory on 23.07.2014 and the report came on 01.08.2014 with similar remarks and no significant material variation. However, since the samples collected and tested were retrieved in sealed form thereby creating liability over the manufacturer of the misbranded samples.

9. In Consequence of the above and the admission made by the Agriculture Development Officer who inspected the shop of the petitioner and thereby collected the samples in question namely 25 Packets Clodinofof propargyl, that the samples collected were sealed and in original packing thereby diminishing the scope of tampering by the petitioner and creating a bona fide presumption in the favour of his innocence.

10. It would be pertinent to make a reference to the relevant judicial pronouncements to appreciate the obligation and responsibility of a marketing agent and also his liability to be criminally prosecuted in the event that the sample in question is drawn out of a sealed container, that was intact at the time of sampling, is found to be misbranded after analysis.

11. This Court in the matter of ***Lochen Kheti Sewa Centre versus State of Punjab 2008 (2) RCR (Crl.) 22*** observed as under-

3. Learned counsel appearing for the respondent/State has very fairly stated that the petitioner is not the manufacturer. The sample was drawn from sealed packets and there is no material to indicate that it was properly stored. Under the circumstances the petitioner cannot be held liable for

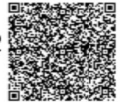


misbranding of the insecticide. Only the manufacturer, who is being proceeded against would be responsible.

Further this Court in the matter of ***Surinder Kumar versus State of Punjab 2011(1) RCR (Crl.) 211*** held as under.-

2. Learned counsel for the petitioner contends that the petitioner is a licensee under Insecticide Act, 1968 to deal with various kinds of insecticides and pesticides of registered and approved manufacturers. It has further been clarified that the petitioner sells only sealed and packed insecticides/pesticides. A sample of insecticide that has been manufactured by a company approved by Government of Punjab was drawn on 25.05.2001. The sample was drawn from originally sealed and packed container. In above regards, learned counsel has referred to para No.3 of the petition which is extracted hereunder: "3. That as per complainant version on 25.05.2001, he drew a sample of one insecticide i.e. Metalyax 8% + Mancozeb 64% EC bearing Batch No.KG-09. Mfg. November, 2000 and Expiry October, 2002 out of two 500 gms. Originally sealed and packed containers lying properly from the shop premises of the petitioner-firm as manufactured by M/s. Fungicide India Ltd. Jammu. The said manufacturing company i.e. M/s Fungicide Ltd. Jammu is the registered and authorised manufacturing company by Govt. of Punjab to sell its products in the State of Punjab"

12. Owing to the merits of the case in hand the Petitioner is not responsible or in-charge for conduct of the business of the manufacturing company and is not responsible to maintain the product quality at the behest of the manufacturer or the activity undertaken by the said manufacturer, and hence, without prejudice to the substantive arguments raised, the institution of the complaint and the subsequent proceedings against the petitioners are liable to be set aside on the said score.



13. Therefore, this Court has no hesitation in holding that the petitioner being a licensed dealer has not tampered with the sealed packets of the insecticides in question. Therefore, he cannot be held liable to be considered for the misbranded sample who is a dealer protected under Section 30(3) of the Act. The liability would solely lie upon the manufacturer and continuation of the criminal proceedings for that sample against the petitioner would be sheer abuse of law.

14. Pertaining to the facts and law discussed above, it is not in the interest of justice to let the petitioner undergo the rigmarole of a criminal trial and have a lasting impact of the same on different facets of life and his social standing. Justice must not only be done but must also be seen to be done and the actions of this court must always uphold the Fundamental rights of the citizens of this country.

15. Hence, this petition is allowed and the Complaint No.30/2015 dated 17.04.2015 titled as *State through Insecticide Inspector Vs. M/s Satguru Kheta Store and others* filed under Sections 3(K)(1), 17, 18, 29 & 33 of Insecticides Act, 1968 & Rules 1971 is ordered to be quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

03.07.2025

Nisha Yadav

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No