



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

1.

CRM-M No.45058 of 2024 (O&M)
Date of decision: January 10th, 2025
- Rajesh Aggarwal

.....Petitioner
- Versus
- State of Punjab

.....Respondent
2.

CRM-M No.49011 of 2024
- Inderjit Singh and another

.....Petitioners
- Versus
- State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

This order shall dispose of the above-mentioned petitions filed under Section 482 of the Cr.P.C. as prayer in these petitions is for quashing of complaint No.32463/764 dated 02.12.2015 under Sections 3(K)(I), 17, 18, 29 and 33 of the Insecticides Act, 1968 (hereinafter referred to as ‘the Act’), pending in the Court of learned Chief Judicial Magistrate, Jalandhar, as well as summoning order dated 22.12.2016. For the sake of convenience, the facts are being taken from CRM-M-45058-2024.

2.
- Reply in CRM-M-45058-2024 by way of affidavit of Insecticide Inspector, Agriculture Bhogpur, Jalandhar, Now Agriculture Officer (Seed), Jalandhar, has been filed in Court, which is taken on record.

3. As per the complaint in question (Annexure P-1), on 23.07.2013, Insecticides Inspector Gurcharan Singh visited the premises of M/s Agriculture Development Store, Village Kala Bakra, Block Bhogpur, District Jalandhar (the firm) and collected a sample of Atrazine 50% WP bearing Batch No.U-0138, manufacturing date 24.05.2013, allegedly manufactured by M/s. Insecticides (India) Limited, Delhi (the company) through its depot in Ludhiana. The samples were drawn following the prescribed procedure under the Act, and one sample was sent to the Senior Analyst at the Insecticides Testing Laboratory, Amritsar. The Amritsar laboratory, vide its report dated 22.08.2013, declared the sample 'misbranded', as the active ingredient content was found to be 36.40% WP, instead of the prescribed 50%. Subsequently, the reference sample was sent to the Central Insecticide Laboratory, Faridabad, which confirmed the finding of misbranding. After obtaining the requisite sanction from the competent authority, a complaint was filed on 02.12.2015 before the learned CJM, Jalandhar. Petitioner-Rajesh Aggarwal (Director) (CRM-M-45058-2024), along with others including Godown Incharge-Inderjit Singh and Sales Officer-V.K. Singhal (petitioners in CRM-M-49011-2024) were summoned as accused.

4. Learned counsel for the petitioners contends that the summoning order is unsustainable as the complaint in question lacks specific averments regarding the role of the petitioners in the alleged offence. It has been argued that mere designation as officials of the company is insufficient to attribute criminal liability under Section 33 of the Act. While relying upon the judgments in *State of N.C.T. of Delhi*

Versus Rajiv Khurana, 2010 (3) RCR (CrI.) 912 and *Cheminova India Ltd. Versus State of Punjab 2021 SCC Online SC 541*, learned counsel submits that the absence of specific allegations demonstrating that the petitioners were responsible for the business of the company or quality control renders the complaint unsustainable.

5. The learned counsel further submits that the company had appointed Uday Kumar as Manager, Quality Control-cum-responsible person, who was tasked with ensuring compliance with Section 33 of the Act. This appointment was duly communicated to the Department of Agriculture, Punjab, through an affidavit dated 18.01.2012, annexed as Annexure P-3. In view of such nomination, the petitioners, who were not associated with the quality control of the manufactured product, cannot be held by vicariously liable.

6. *Per contra*, learned State counsel submits that the petitioners, as officials of the company, were responsible for ensuring compliance with the provisions of the Act. It has been argued that the question of whether these petitioners were directly involved in quality control is a matter, which can be determined only during the trial.

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. Before delving into the merits, it is pertinent to refer to the relevant provisions of the Act, which are as under:-

“3. Definitions.—In this Act, unless the context otherwise requires,—
(a) to (j) XXXX XXXX XXXX
(k) “misbranded”—an insecticide shall be deemed to be misbranded— (i) if its label contains any statement, design or graphic representation relating thereto which is false or

misleading in any material particular, or if its package is otherwise deceptive in respect of its contents;

17. Prohibition of import and manufacture of certain insecticides.—(1) *No person shall, himself or by any person on his behalf, import or manufacture— (a) any misbranded insecticide; (b) any insecticide the sale, distribution or use of which is for the time being prohibited under section 27; (c) any insecticide except in accordance with the conditions on which it was registered; (d) any insecticide in contravention of any other provision of this Act or of any rule made thereunder: Provided that any person who has applied for registration of an insecticide 1 [under any of the provisos] to sub-section (1) of section 9 may continue to import or manufacture any such insecticide and such insecticide shall not be deemed to be a misbranded insecticide within the meaning of sub-clause (vi) or sub-clause (vii) or sub-clause (viii) of clause (k) of section 3, until he has been informed by the Registration Committee of its decision to refuse to register the said insecticide. (2) No person shall, himself or by any person on his behalf, manufacture any insecticide except under, and in accordance with the conditions of, a licence issued for such purpose under this Act.*

18. Prohibition of sale, etc., of certain insecticides.—(1) *No person shall, himself or by any person on his behalf, sell, stock or exhibit for sale, distribute, 2 [transport, use, or cause to be used] by any worker— (a) any insecticide which is not registered under this Act; (b) any insecticide, the sale, distribution or use of which is for the time being prohibited under section 27; (c) any insecticide in contravention of any other provision of this Act or of any rule made thereunder. (2) No person shall, himself or by any person on his behalf, sell, stock or exhibit for sale or distribute 3 [or use for commercial pest control operations] any insecticide except under, and in accordance with the conditions of, a licence issued for such purpose under this Act. Explanation.—For the purposes of this section an insecticide in respect of which any person has applied for a certificate of registration 4 [under any of the provisos] to sub-section (1) of section 9, shall be deemed to be registered till the date on which the refusal to register such insecticide is notified in the Official Gazette.*

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 insecticides, 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, 1 [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 2 [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 3 [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 4 [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.

33. Offences by companies.—(1) *Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.— For the purpose of this section:— (a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.”

9. Further Hon’ble the Supreme Court in ***State of N.C.T. of Delhi Versus Rajiv Khurana’s case (supra)*** has categorically held that to prosecute a Director or Officer of a company, specific averments must be made in the complaint demonstrating their role in the conduct of the business of the company. The mere designation of a person as a Director or Officer is insufficient.

10. Similarly, in ***M/s. Cheminova India Ltd.’s case (supra)***, Hon’ble the Supreme Court held that when a company nominates a

responsible person for compliance under the Act, other officials cannot be held vicariously liable.

11. Upon examining the complaint in the present case, it is evident that no specific allegations have been made against the petitioners demonstrating their involvement in the quality control process of the company. The complaint explicitly identifies Uday Kumar as the Manager Quality Control-cum-responsible person, who has already been proceeded against.

12. In light of the settled law and the facts of the case, the prosecution of the petitioners, who were concededly not responsible for quality control, would constitute an abuse of the process of law. The instant petitions are allowed and the complaint in question (Annexure P-1) along with all consequences proceedings arising therefrom including the summoning order (Annexure P-2) are quashed qua the petitioners.

13. In the light of the decision of the petitions, all pending applications stand disposed of.

January 10th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No