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

201

CRM-M-50282-2019 (O&M)
Date of decision : 22.12.2025

M/s Garg Farm Service and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Deshpreet Singh, Advocate
for the petitioners.

Mr. Roshandeep Singh, AAG, Punjab.

Mr. Rakesh Verma, Advocate
for respondents No. 2 to 5.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of the Code of Criminal Procedure, is for quashing of Complaint bearing No. COMA/304/2019, dated 05.07.2019, titled as ***State vs. M/s Garg Farm Services and others***, filed under Sections 3k(1), 17, 18, 29 and 33 of the Insecticides Act, 1968 (for short 'the Act, 1968) read with Rule 27 of the Insecticides Rules, 1971 along with all the subsequent proceedings having emanated therefrom including order dated 06.09.2019, passed by the Court of learned Judicial Magistrate First Class, Talwandi Sabo, Bathinda, whereby the petitioners had been summoned to face trial in the aforesaid complaint.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned complaint had been filed by the

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respondent-State against six persons/firms, who were either dealer, supplier, distributor or manufacturer under the provisions of the Act, 1968. The present petitioners are accused Nos. 1 and 2 in the impugned complaint.

3. As per the allegations made in the impugned complaint, on 03.07.2018, the complainant-Mr. Jaideep Singh, Insecticide Inspector inspected the shop of M/s Garg Farm Services. During inspection, petitioner No. 2-Ajay Kumar, who is the sole proprietor of petitioner No. 1-firm, was present in the shop. The complainant checked the stock register of the firm and found 2400 kgs. (480 x 5 kgs.) stock of insecticide Fipronil 0.3% GR bearing Batch No. MCPF1807 having manufacturing date 19.05.2018 and expiry date 18.05.2020, which was manufactured by respondent No. 2-M/s Modesto Crop Protection Pvt. Ltd. The complainant chose one sealed packet of the said insecticide and prepared three separate sample parcels of 250 grams each. Requisite forms were filled up and signed by the complainant. One sealed sample along with duly filled form No. XX was handed over to petitioner No. 2. The remaining two samples were accordingly deposited in the office of Chief Agricultural Officer, Bathinda along with Form No.XX and Form No.XXI in intact position. One sealed sample and one sealed Form No.XXI was sent by the Chief Agricultural Officer, Bathinda to the Insecticide Testing Laboratory, Amritsar vide letter No.18 dated 05.07.2018. The test report was received on 17.07.2018, as per which, the active ingredient contents of Fipronil had been found to be 0.02% instead of Fipronil 0.3% GR. Hence, the sample did not conform to its percent active ingredient content and was declared to be misbranded.

4. After receipt of the aforesaid report in the office of Chief

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Agricultural Officer, Bathinda on 20.07.2018, a show cause notice was served upon the petitioners on 30.07.2018. The petitioners submitted their reply to the show cause notice on 07.08.2018 to the effect that the said insecticide was purchased by them from the supplier company respondent No. 2-M/s Modesto Crop Protection Pvt. Ltd. against invoice No. ASD/2018-19/113 dated 18.06.2018. They also requested to get the reference sample re-tested at their cost. Show cause notices were also served upon respondents No. 2 to 5, who are manufacturer-firm, its proprietor and other employees. On request of the petitioners, the reference sample was sent to Central Insecticide Laboratory, Faridabad for re-testing on 05.11.2018 and the report thereof was received on 01.01.2019, as per which, the sample had shown 0.17% active ingredient contents instead of 0.3% of Fipronil. As such, this sample also did not conform to the relevant IS specification in the active ingredient test requirement and was accordingly declared to be misbranded.

5. After receiving the re-test report on 01.01.2019 and considering the reply submitted by the petitioners, the Chief Agricultural Officer-cum-Licensing Officer, Bathinda had suspended the Insecticide License of the petitioner-firm, vide order dated 12.02.2019. The petitioners had filed an appeal against suspension of their license before the Joint Director of Agriculture (Plant Protection), Punjab, SAS Nagar, which was partly allowed and the license of the petitioners was partially restored with a direction to not to sell the misbranded insecticide. Show cause notices were served upon the manufacturing and marketing company i.e. respondent No. 2-M/s Modesto Crop Protection Pvt. Ltd., who had admitted that the misbranded insecticide had been supplied to the petitioners from their company.

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6. While alleging that as per Section 29(1)(a) of the Act, 1968, whoever 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 will be liable for punishment, it was alleged in the impugned complaint that the accused persons, including the petitioners, had committed an offence due to the failure of the above mentioned samples and, thus, they had violated the provisions of Sections 3k(1), 17, 18, 29 and 33 of the Act, 1968, which is punishable under Section 29(1)(a) of the Act.

7. On presentation of the complaint and after considering the preliminary evidence led by the complainant, the learned Magistrate had summoned the petitioners as well as respondents No. 2 to 5 to face the trial in the impugned complaint for commission of offences alleged therein. Aggrieved from the same, the petitioners have filed the present petition and vide order dated 26.11.2019, while issuing notice of motion, further proceedings before the learned trial Court were stayed by this Court.

8. Learned counsel for the petitioners has argued that the impugned complaint as well as the summoning order are not sustainable in the eyes of law qua the petitioners, who are undisputedly only the dealers of the misbranded insecticide and not the manufacturer of the same. The samples in question were drawn from a sealed packet and the manufacturer of the said material is respondent No. 2 M/s Modesto Crop Protection Pvt. Ltd. Being the dealer firm and its proprietor, the petitioners cannot be held responsible for the alleged deficiency in the active ingredients of a sample or accountable for a case of misbranding. In the complaint, there is no allegation that the insecticide

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was stored by the petitioners in any improper condition or that they could after exercising reasonable diligence have ascertained that insecticide was contravening any of the provisions of the Act, 1968. It is further argued that by granting sanction under Section 31(1) of the Act, 1968, the sanctioning authority i.e. Joint Director Agriculture failed to take note of the aforesaid facts as well as the position in law and the said sanction has been granted in a mechanical manner without applying judicious mind. The petitioners were not incharge or responsible for conduct of the business of the manufacturing company and were not responsible to maintain the quality of the product manufactured by it. While alleging that the prosecution of the petitioners under the impugned complaint is sheer abuse of process of law, it is urged that the complaint as well as the summoning order are liable to be quashed qua them. To buttress his arguments, learned counsel for the petitioners has relied upon the authorities cited as ***Lochen Kheti Sewa Centre vs. State of Punjab, 2008(2) RCR (Criminal) 22*** and ***P. D. Garg and others vs. State of Punjab, 2014 (2) RCR 945***.

9. *Per contra*, learned State counsel, while reiterating the allegations as made in the impugned complaint and also in terms of the reply filed on behalf of respondent No. 1-State, has argued that it is an established case of misbranding and that the active ingredients were much less than the contents as described in the label. He has further argued that the petitioners are liable to be prosecuted as the branded article was sold and distributed with their knowledge, consent and connivance. They are at liberty to raise all the grounds as raised in the present petition during trial. No case for quashing of the impugned complaint and the summoning order has been made out. Hence, it is

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urged that the petition lacks merit and is liable to be dismissed.

10. Learned counsel for respondent Nos. 2 to 5, who are manufacturing and marketing company, its director, the persons responsible for conduct of business and quality control of the firm and godown incharge respectively, has admitted that the aforementioned insecticide was manufactured and supplied by respondent No. 2-M/s Modesto Crop Protection Pvt. Ltd. It is submitted that respondents No. 2 and 5 have also filed a petition before this Court seeking quashing of the impugned complaint qua them, which is pending.

11. This Court has heard the rival submissions of the parties.

12. Before proceeding further, it would be relevant to have a look on the provisions of Section 30 of the Act, 1968, which are reproduced below:

“30. Defences which may or may not be allowed in prosecutions under this Act.—

- (1) Save as hereinafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature or quality of the insecticide in respect of which the offence was committed or of the risk involved in the manufacture, sale or use of such insecticide or of the circumstances of its manufacture or import.
- (2) For the purposes of section 17, an insecticide shall not be deemed to be misbranded only by reason of the fact that—
 - (a) there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or the preparation of the insecticide as an article of commerce in a state fit for carriage or consumption, and not to

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increase the bulk, weight or measure of the insecticide or to conceal its inferior quality or other defect; or

- (b) in the process of manufacture, preparation or conveyance some extraneous substance has unavoidably become intermixed with it.

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

13. A bare perusal of sub-section (3) of the aforementioned provision clearly shows that a person not being an importer or a manufacturer of an insecticide or his agent for the distribution of the same shall not be liable for a contravention of any provision of this Act, if it is found that he had acquired the insecticide from an importer or a duly licensed manufacturer, distributor or dealer and could not have ascertained that the insecticide in any way contravened any provision of the Act, 1968 and the insecticide in question was properly stored and remained in the same state as when it was acquired by such person. While interpreting the aforesaid provisions of the Act, 1968 and

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by taking into account the fact that the accused persons were not the manufacturer and marketing company and the samples were drawn from a sealed packet, the similar complaints had been quashed by the Courts qua the dealers/firms and its proprietors, from whose premises, the misbranded insecticide was taken into possession. Reference in this regard can be made to the judgment rendered by this Court in ***M/s Preet Kheti Sewa Center and another vs. State of Punjab (CRM-M-21176-2019 decided on 18.03.2020)***, wherein it was observed as under :

“...There remains no doubt that no criminal liability can be fastened upon the petitioners. This is so because, as already seen, the samples of the misbranded articles were collected from their Premises while in "sealed containers", which were not found to be stored improperly and, in any event, there is nothing on record to indicate that being the Dealers, the petitioners had any other source of information that the concerned product was misbranded. The case therefore, squarely falls under the ratio of Supreme Court's decision in *M/s Kisan Beej Bhandar, Abohar's case* (supra) and the other Judgments passed by various Benches of this Court in the aforesaid decisions. Consequently, the Court finds the Complaint to be untenable qua the present Petitioners. The same and all subsequent proceedings including the indicated impugned Summoning Order stand quashed qua the Petitioners.”

14. Reference can further be made to ***M/s Sandhu Kheti Store Sewa Centre and others vs. State of Punjab, 2013(4) RCR (Criminal) 893***, wherein this Court, while quashing a similar complaint qua the dealers, has made the following observations:

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“8. Admittedly, the petitioners are not the manufacturers of the insecticides but the dealer and the distributor. Hence, they can not be held responsible for misbranding the insecticide, which was not manufactured by them. The petitioners were only involved in the sale of insecticide. The complaint qua manufacturers is pending. There is nothing on record to suggest that the insecticide had not been properly stored by the petitioners. 9. Accordingly, this petition is allowed and complaint No. 38/07 of 25.4.2007 under Section 3k(1), 17, 18, 29 and 33 of Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules 1971 (Annexure P-1) and all the consequential proceedings arising out of the said complaint, qua the petitioners, are quashed”

15. Reference can also be had to the observations made by this Court in *Surinder Kumar vs. State of Punjab, 2011(1) RCR (Criminal) 211*, wherein this Court has concluded that the petitioner therein who was merely selling the insecticide had no occasion to tamper with the contents of the container/insecticide and it would be an abuse of process of law and the petitioner being only involved in sale of insecticide cannot be held responsible for the contents of the misbranded insecticide. Similar view was expressed by this Court in *Naresh Kumar vs. State of Punjab, 2011(2) RCR (Criminal) 202*, *M/s Garg Agro Chemicals and another vs. State of Punjab, 2011(2) RCR (Criminal) 395*, *Ramesh Kumar and others vs. State of Punjab, 2010 (2) RCR (Criminal) 273* and *M/s Sanjeev Sales Corporation and another vs. State of Punjab, 2010(1) RCR (Criminal) 33* and *M/s Bajwa Seed Store and others vs. State of Punjab, 2009(1) RCR (Criminal) 378*.

16. Adverting to the present case, it is admitted position that the

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complainant-Insecticide Inspector had drawn the samples of the insecticide in question from a sealed packet kept in the premises of the petitioners. The allegations made in this regard in paragraph No. 7 of the impugned complaint, are reproduced below:

“The complainant selected one **sealed packet** of 5 kgs out of 2400kgs stock of Fipronil 0.3% GR bearing Batch No. MCPF1807 having manufacturing date 19.05.2018 and expiry date 18.05.2020 manufactured by M/s Modesto Crop Protection Pvt. Ltd, Modesto Complex, Plot no: 2, Gali no: 1, Near Cooler Factory, Gaushala Road Karnal in the presence of accused Ajay Kumar So Sh. Bhagwan Das, Proprietor of M/s Garg Farm Service, Village Raman Mandi, Tehsil Talwandi Sabo, Distt. Bathinda as well as in the presence of Sh. Ajaypal Singh Brar, Agriculture Development Officer, Farm Manager, Seed Farm Talwandi Sabo, Distt. Bathinda. Then after opening the **sealed packet**, complainant prepared three loose test samples by putting 250 grams of this insecticide batch material into three separate empty, neat, clean and dry polythenes. Then complainant transferred those three polythenes containing 250 grams of insecticide into three empty, neat, clean and dry cloth bags (one into each cloth bag).”

17. It is quite explicit from the abovementioned allegations that the samples were drawn out of a sealed packet of Fipronil 0.3% GR insecticide. On going through the contents of the complaint, it is found that there are no averments that the petitioners had either acquired the insecticide from an importer, who was not a duly licensed manufacturer or distributor or they could have ascertained, in any manner, that the insecticide in any way had contravened any provision of the Act, 1968 or that the insecticide in question

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was not properly stored and remained in the same state as when it was acquired by the petitioners. In view thereof, while applying the ratio of law laid down in aforecited authorities, which are based on sub-Section 30(3) of the Act, 1968, it can reasonably be said that the petitioners, who had procured the insecticide in question from respondent No. 2-M/s Modesto Crop Protection Pvt. Ltd. in sealed packets and the samples were drawn in one of those sealed packets, could not be prosecuted under the impugned complaint.

18. In view of the discussion made above, this Court is of the considered opinion that if the prosecution of the petitioners is permitted to continue for the offences alleged in the impugned complaint, the same would amount to abuse of process of law. Accordingly, the present petition is allowed. The impugned complaint as well as the impugned summoning order are hereby quashed qua the petitioners along with all the subsequent proceedings having arisen therefrom.

22.12.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No