2026:PHHC:080876

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

2026:PHHC:080876

CRM-M-6346-2024 (O&M)

M/s Life Vision Healthcare and another **...Petitioners**

Versus

State of Punjab through its Drugs Inspector **...Respondent**

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	14.05.2026
2	The date when the judgment is pronounced	26.05.2026
3	The date when the judgment is uploaded on the website	26.05.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Nitin Bahsin, Advocate and
Mr. Bharti Bhatia, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 482 Cr.P.C. *(which corresponds to Section 528 of BNSS)*, is for quashing of Complaint No. COMA/700/2022 dated 10.06.2022 titled as ***"State through Drugs Inspector, Amritsar Vs. Naveen Kumar Bansal and others",*** filed under Sections 18(a)(i) and 18-B punishable under Sections 27(d) and 28-A of the Drugs and Cosmetics Act, 1940 *(for short 'the Act, 1940')* and Rules, 1945 framed

thereunder, alongwith summoning order dated 23.02.2023 passed by the learned Chief Judicial Magistrate, Amritsar and all consequential proceedings arising therefrom.

2. Brief facts of the case as emanating from the record are that petitioner No.1 is a partnership firm namely M/s Life Vision Healthcare situated at EPIP Industrial Area, Jharmajri, Baddi, District Solan, Himachal Pradesh and is stated to be holding valid cosmetics manufacturing licence issued under the provisions of the Act, 1940 and the Rules framed thereunder by the competent authority of the State of Himachal Pradesh. Petitioner No.2 is stated to be one of the partners of the said firm. It is alleged in the impugned complaint that on 23.06.2020, the Drug Inspector inspected the premises of M/s Simran Medicos situated opposite Shri Guru Ram Dass Hospital, Amritsar and drew sample of product namely "Dew Drop Hand Rub", Batch No. LC00142, manufacturing date 03/2020 and expiry date 02/2022, allegedly manufactured by petitioner-firm. Four portions of the sample were prepared and sealed in accordance with the prescribed procedure and one portion thereof was sent to the Government Analyst for test and analysis. The Government Analyst, Punjab, vide report dated 07.08.2020 issued in Form-13, declared the sample to be "not of standard quality" on the ground that Isopropyl Alcohol content was found to be 46.99% w/v as against the label claim of 60% w/v. Thereafter, preliminary show-cause notice dated 24.08.2020 was allegedly issued to the petitioners, which was replied to on 09.09.2020. Subsequently, another show-cause notice dated 11.12.2020 was issued to petitioner No.1 and reply thereto dated 24.12.2020 was submitted by the petitioners. However, the respondent filed the impugned complaint before

the Court of learned Chief Judicial Magistrate, Amritsar. Upon presentation of the complaint and on finding that a prima facie case for the alleged offences was made out against the petitioners, the learned trial Court vide order dated 23.02.2023 summoned them to face trial. Aggrieved from the same, the petitioners have filed the present petition. Vide order dated 15.02.2024, while issuing notice of motion, further proceedings qua the petitioners were ordered to be stayed.

3. It is argued by learned counsel for the petitioners that the entire prosecution is nothing but an abuse of the process of law as the product in question i.e. “Dew Drop Hand Rub” is a cosmetic falling within the definition of “cosmetic” under Section 3(aaa) of the Act, 1940 and not a “drug” within the meaning of Section 3(b) of the Act, 1940. It is argued that the respondent has mechanically invoked provisions applicable to drugs without there being any material to show that the product in question was being manufactured or marketed as a drug. The petitioners were holding a valid cosmetics licence and the product in question was manufactured strictly under the Cosmetics Rules. The label of the product itself disclosed that it was a cosmetic product and even GST invoices reflected HSN classification applicable to cosmetics.

4. It is further argued that the mandatory provisions of Sections 23 and 25 of the Act, 1940 were not complied with by the respondent. The sample portion was never supplied to the manufacturer/petitioners in terms of Section 23(4) of the Act, 1940 thereby depriving them of their valuable statutory right to seek re-analysis from the Central Drugs Laboratory. It is contended that by the time the complaint was instituted on 10.06.2022, the shelf life of the product had already expired in March, 2022 and thus the

petitioners lost their valuable right of retesting under Section 25(4) of the Act, which has caused serious prejudice to them. Moreso, the report of the Government Analyst was not issued in the prescribed form applicable to cosmetics and the testing methodology adopted was contrary to the Cosmetics Rules, 1945. It is submitted that the report neither disclosed the method of testing nor was the sample tested in a notified cosmetics laboratory.

5. It is further argued that the impugned complaint itself is barred by limitation. It is submitted that the alleged offence, even if assumed to be made out, was punishable with imprisonment up to one year and, therefore, limitation prescribed under Section 468 Cr.P.C. would apply. However, the respondent intentionally invoked Section 27(d) of the Act, 1940 merely to overcome the bar of limitation. The complaint as well as the summoning order are liable to be quashed for non-compliance of Section 34 of the Act, 1940. It is argued that except making bald allegations, there is no averment in the complaint that petitioners were in-charge of and responsible for the conduct of day-to-day affairs of the firm at the relevant time. Mere designation as partner/director is not sufficient to attract vicarious liability under Section 34 of the Act, 1940. While submitting that the learned trial Court has wrongly entertained the impugned complaint and passed the summoning order, it is urged that the petition deserves to be allowed and the impugned complaint, summoning order as well as all the subsequent proceedings having emanated therefrom are liable to be quashed.

6. Reply has been filed by the respondent-State. It is argued by learned State counsel that the product in question was sampled in accordance with the provisions of the Act, 1940 and the Rules framed thereunder and

upon analysis by the Government Analyst, Punjab, the same was declared to be “Not of Standard Quality” on account of deficiency in Isopropyl Alcohol content. After receipt of the Government Analyst report, a letter dated 11.12.2020 along with attested copy of the test report was duly sent to the petitioners through registered post requiring them to explain their position regarding the NSQ report and also to furnish manufacturing, sale and quality related documents concerning the product in question. It has further been argued that the said communication also contained information regarding service of sealed sample portion upon the concerned party. The petitioners, in their reply dated 24.12.2020, acknowledged receipt of the aforesaid communication and disclosed that their drug manufacturing licences bearing Nos. MNB/09/0804 and MNB/09/0805 had already been suspended by the Assistant Drugs Controller-cum-Licensing Authority, Baddi, for a period of two months commencing from 16.12.2020 to 15.02.2021. According to the State, despite specific demand, the petitioners never supplied the manufacturing, sale and quality control record pertaining to the product in question before the office of the Drugs Control Officer, Amritsar-I.

7. It is further argued by learned State counsel that during inquiry, the complainant personally visited the office of the State Drugs Controller, Baddi, Himachal Pradesh on 01.04.2022 and thereafter procured certified documents relating to constitution of the petitioner-firm, renewal certificates of drug manufacturing licences, GMP certificates, retention applications and partnership deed through the office of Assistant Commissioner (Drugs), FDA, Kharar, Punjab. Learned State counsel submits that all the documents supplied by the petitioners and obtained from the licensing authority pertained to drug

manufacturing licences and not cosmetics manufacturing licences. It is contended that no document relating to cosmetics manufacturing licence or product permission was ever furnished by the petitioners before the respondent-authority. Sufficient material existed before the competent authority to launch prosecution and after obtaining due sanction from the Joint Commissioner Drugs-cum-State Drugs Controlling and Licensing Authority, Punjab, the impugned complaint was rightly instituted before the learned Chief Judicial Magistrate, Amritsar. It is further argued that no ground for exercise of inherent jurisdiction under Section 482 Cr.P.C. is made out for quashing of the impugned complaint or subsequent proceedings. Hence, it is urged that the petition is liable to be dismissed.

8. This Court has heard the rival submissions.

9. The principal challenge raised by the petitioners is that the product in question namely “Dew Drop Hand Rub” is a cosmetic and not a drug and, therefore, provisions of the Act, 1940 have wrongly been invoked. However, this Court finds that such contention itself involves disputed questions requiring appreciation of factual and technical material and cannot be conclusively determined in proceedings under Section 482 Cr.P.C. The record shows that the sample of the product was drawn by the competent authority and was thereafter sent for analysis. The Government Analyst declared the sample to be “Not of Standard Quality” on account of deficiency in Isopropyl Alcohol content. The respondent has specifically pleaded that during inquiry, documents relating to manufacturing licences and other records were called for and that material collected during investigation formed

the basis for obtaining sanction and institution of complaint. Whether the sampled product was being manufactured and marketed as a cosmetic or whether, by virtue of its composition, intended use and regulatory framework, the same fell within the category of a drug are matters which would necessarily require evidence and technical adjudication before the trial Court. Such disputed issues cannot be adjudicated merely on competing assertions of the parties in a petition for quashing.

10. This Court also does not find merit in the submission regarding limitation. The complaint has been instituted for offences punishable under Sections 27(d) and 28-A of the Act, 1940. Section 27(d) prescribes punishment which may extend to two years and, therefore, the applicable limitation under Section 468 Cr.P.C. would extend up to three years. The complaint having been filed on 10.06.2022 cannot, at this stage, be held to be ex facie barred by limitation. The argument raised on behalf of the petitioners that Section 27(d) has been deliberately invoked only to overcome limitation also cannot be accepted in proceedings under Section 482 Cr.P.C. Whether invocation of Section 27(d) was legally justified and whether ingredients thereof are ultimately established are matters to be tested on evidence during trial and not at the threshold while exercising inherent jurisdiction. The other arguments raised on behalf of the petitioners also need appreciation of facts and evidence, which are not supposed to be done by this Court at this stage. It is well settled that the power under Section 482 Cr.P.C. is to be exercised sparingly and only where continuation of proceedings would amount to patent abuse of process or where allegations, even if accepted in entirety, do not disclose commission of any offence. In the present case, the complaint is

founded upon sampling, analyst report, exchange of notices, collection of documents and grant of sanction by the competent authority. At this stage, this Court cannot embark upon a mini trial to determine whether the product is ultimately a cosmetic or a drug or whether the ingredients of the offences are made out.

11. Accordingly, finding no ground to interfere in exercise of inherent jurisdiction, the present petition is dismissed. Interim order, if any, stands vacated and the parties shall appear before the learned trial Court for further proceedings in accordance with law.

26.05.2026 **(MANISHA BATRA)**
Parveen Sharma **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*