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

2026:PHHC:069144

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CRM-M-54339-2022 (O&M)
Date of decision : 05.05.2026

Kulwinder Singh **...Petitioner**

Versus

State of Punjab through Drugs Control Officer (Drugs Inspector), Amritsar **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Karan Kaushal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J. *(Oral)*

1. The instant petition has been filed by the petitioners under Section 482 of the Code of Criminal Procedure *(for short 'the Code')* seeking quashing of complaint bearing No. COMA/283/2022 dated 17.03.2022, titled as ***State through Drugs Control Officer (Drugs Inspector), Amritsar v. Kulwinder Singh***, filed under Section 18(c) read with Rule 62, punishable under Section 27(b)(ii) and Section 18-A punishable under Sectio 28 of the Drugs and Cosmetics Act, 1940 *(for short 'the Act, 1940')* and Rule, 1945, as well as for quashing of order dated 01.04.2022, whereby the petitioner was summoned to face trial in the aforementioned complaint.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that on the basis of a secret information received from the

local police, a raiding party headed by complainant/Drugs Control Officer Rohit Sharma reached at the premises of M/s Guru Ram Dass Medical Store on 30.09.2020, which was situated at Adda Chabba, Tarn Taran Road, Amritsar. The petitioner, who was partner in the said firm was present there as incharge of the same. During the inspection of the said firm, it was found that the petitioner Kulwinder Singh had stocked various allopathic drugs not only in the licensed shop but also in unlicensed premises located on the first and second floors above the said medical store. Upon inquiry, the petitioner failed to produce any valid drug sale licence or any authorization to stock or sell such drugs, as required under the Act, 1940 and the Rules framed thereunder. He also failed to disclose the source from which the drugs had been procured. Consequently, the complainant seized six types of allopathic drugs from the unlicensed premises in accordance with the prescribed procedure and prepared the necessary documentation, including seizure memo and inspection report. The seized drugs were duly sealed and later produced before the Court of the Chief Judicial Magistrate, Amritsar, along with an application for custody orders, which were duly obtained. It is further the case of the complainant that after the inspection, a notice dated 05.10.2020 was issued to the petitioner calling upon him to explain his position regarding the irregularities found during inspection. In response, the petitioner submitted a reply admitting ownership of the premises in question and furnished certain documents, including an agreement deed and purchase bills in the name of the licensed firm. However, he failed to produce any valid drug sale licence authorizing him to stock or sell allopathic drugs at the premises in question. Thereafter, the complainant forwarded detailed reports on multiple occasions to the competent authority, i.e., the Joint Commissioner (Drugs) and State Drugs Controlling and Licensing Authority, Punjab, seeking sanction to initiate prosecution against the accused. Upon consideration, the competent authority accorded the necessary sanction for prosecution vide order dated 15.11.2021. Hence, while alleging that the petitioner had stocked various allopathic drugs in unlicensed premises for the purpose of sale and distribution without holding any valid licence and had also failed to disclose the source of procurement, thereby contravening the provisions of the Act, 1940 and the Rules framed thereunder, the impugned complaint was filed against him.

3. After presentation of the complaint, preliminary evidence was led by the complainant and on finding a prima facie case for commission of aforementioned offences against the petitioner, the impugned order dated 17.03.2022 was passed by the learned trial Court, thereby summoning the petitioner to face trial therein.

4. It is argued by learned counsel for the petitioner that the impugned complaint as well as the impugned summoning order dated 17.03.2022 are not sustainable in the eyes. It is argued that the petitioner is a partner in M/s Guru Ram Dass Medical Store, a duly licensed partnership firm, holding a valid drug licence on the date of inspection. The alleged recovery of drugs from the first and second floors cannot be termed as stocking in an unlicensed premises, as the entire building is owned by the petitioner and the said portion was being used temporarily due to ongoing construction and whitewash at the licensed premises. The drugs were duly purchased in the name of the licensed firm as is evident from the bills already furnished to the authorities. Learned counsel has further argued that the

mandatory requirements of Section 34 of the Act, 1940 have not been complied with, inasmuch as neither the partnership firm nor the other partners, namely Ankush Kumar and Nirmal Singh, have been arrayed as accused. There is no material to show that the petitioner alone was in charge of and responsible for the conduct of the business. Moreso, the firm of the petitioner has not been impleaded as an accused in the impugned complaint and in the absence of the same, the present prosecution is legally unsustainable.

5. It is further argued that the petitioner had duly responded to the show cause notice and disclosed the source of procurement of the drugs by furnishing purchase bills, thereby complying with the requirements of Section 18-A of the Act, 1940. The mere inability to produce one bill at the relevant time, owing to renovation work, does not constitute an offence, particularly when the petitioner had sought time to trace and submit the same. It is also argued that the petitioner has been carrying on his business in accordance with law and has not indulged in any illegal activity. The complaint, according to the counsel, has been filed without proper appreciation of facts and in disregard of the material placed on record, rendering the continuation of proceedings an abuse of the process of law. Hence, it is urged that the complaint and summoning order along with all the subsequent proceedings having emanated therefrom are liable to be quashed.

6. Reply has been filed on behalf of the respondent-State. Learned State counsel has argued that the petitioner was found stocking allopathic drugs at premises which were not covered under a valid licence, thereby clearly violating the provisions of the Act, 1940. There is no infirmity or

illegality in the summoning order. No ground for quashing of the complaint or summoning order has been made out. The pleas raised by the petitioner involve disputed questions of fact, which cannot be adjudicated in proceedings under Section 482 of the Code. Hence, it urged that the petition is liable to be dismissed.

7. This Court has heard the rival submissions.

8. At the outset, it is trite that the inherent jurisdiction under Section 482 of the Code *(which corresponds to Section 528 of BNSS)* is to be exercised sparingly but where continuation of proceedings amounts to abuse of process, the Court would be justified in intervening. In ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, the Hon'ble Supreme Court illustratively laid down categories where quashing is permissible. Similarly, in ***State of Karnataka v. L. Muniswamy*, (1977) 2 SCC 699**, it was held that proceedings can be quashed where ends of justice so require. Further, in ***Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293***, while relying upon ***Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330***, the Hon'ble Supreme Court held that where the material produced by the accused is of sterling and unimpeachable quality and demolishes the prosecution case, the High Court would be justified in exercising its inherent powers.

9. In the present case, it is not disputed that the petitioner is a partner of a duly licensed firm, i.e. M/s Guru Ram Dass Medical Store and that the drugs in question were purchased in the name of the licensed entity. The documents placed on record, including purchase bills furnished in response to the show cause notice, prima facie demonstrate compliance with

the requirement under Section 18-A of the Act, 1940. The mere non-production of one bill at the relevant time, especially when a plausible explanation has been furnished, cannot be construed to attract criminal liability.

10. This Court further finds merit in the contention raised on behalf of the petitioner regarding non-impleadment of the partnership firm and other partners. Section 34 of the Act, 1940 clearly mandates that where any offence under this Act is committed by a company, then every person at the time when the offence was committed, was incharge, and 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. As per the explanation of this provision, "company" means a body corporate and includes firm or other association of individuals. It is, therefore, clear that till a company or firm is arraigned as an accused, offence, if any, committed by the company/firm cannot be ascertained. In the instant case, the alleged offences were indisputably committed by the partnership firm M/s Guru Ram Dass Medical Store. However, interestingly, neither other partners of the firm nor the firm itself has been arraigned as an accused in the impugned complaint. The law on this aspect stands settled by the Hon'ble Supreme Court in ***Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661***, wherein it has been held that arraigning of the company is a *sine qua non* for fastening vicarious liability upon its officers. The said principle has been consistently followed, including in ***Dayle De'souza v. Government of India, 2021 SCC OnLine SC 1012***. A similar view was taken by this Court in ***Vinod Gupta v. State of Punjab through its Drugs Inspector, Jalandhar, CRM-M-28031-***

2016, decided on 27.08.2019, wherein it has been held that failure to implead the company or firm renders the prosecution against its officers unsustainable. It is clear from the above that in the absence of impleadment of accused firm, the impugned complaint cannot be stated to be sustainable. In view of the above, this Court is of the considered opinion that continuation of the proceedings under the impugned complaint against the petitioner amount to abuse of the process of law and cause unnecessary harassment to him. Consequently, in light of the principles laid down in the aforecited authorities, this Court deems it a fit case to exercise its inherent jurisdiction. Accordingly, the present petition is allowed and the complaint, summoning order as well as all the subsequent proceedings having emanated therefrom are quashed qua the petitioner.

05.05.2026 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*