

2026.PHHC.001388



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

303

CRM-M-54392-2024 (O&M)
Date of decision : 14.01.2026

M/s FMC India Private Limited and another**...Petitioners**

Versus

State of Haryana through Quality Control Inspector**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Nitin Thatai, Advocate,
Ms. Monika Thatai, Advocate,
Ms. Shruti Sharma, Advocate and
Mr. Karan Sharma, Advocate
for the petitioners.

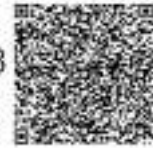
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking quashing of Criminal complaint bearing No. 521 dated 07.12.2019 (Annexure P-4), titled as ***State of Haryana vs. Sh. Sandeep & others***, filed under Section 7 of the Essential Commodities Act, 1955 for contravention of Clause 19(a) and (b) of Fertilizer (Control) Order, 1985, pending before the Court of learned Chief Judicial Magistrate, Jind as well as for quashing of order dated 07.12.2019 (Annexure P-5) passed therein, whereby the petitioners were ordered to be summoned as accused to face trial for commission of aforementioned offences.

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

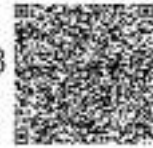
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the complainant-Quality Control Inspector, Jind on the allegations that the complainant inspected the premises of M/s Tirupati Khad Bhandar, Old Anaj Mandi, Julana on 13.03.2019. During checking, he found that 30 pieces of Zinc Oxide Suspension 39.5 in 250 ML packing bearing Batch No. 7KZN0020, manufactured by M/s P. L. Agro Technologies and marketed by petitioner No. 1-M/s FMC India Private Limited, Mumbai, were stocked therein. Samples were drawn from the said fertilizers by randomly selecting three pieces of the said fertilizers. Out of these samples, one sample was handed over to the dealer and remaining two samples were submitted to Deputy Director of Agriculture, Jind on 13.03.2019, who sent one sample to Senior Analyst, Quality Control Laboratory Fertilizers, Karnal on 14.03.2019 for analysis and one reference sample was kept by the office of the Deputy Director of Agriculture, Jind. An analysis report dated 29.03.2019 was received by the Senior Analyst, Quality Control Laboratory Fertilizers, Karnal, wherein the sample of the aforementioned fertilizer was found to be misbranded as the contents of Nitrogen was found to be 0.84% instead of 0.9% and the contents of Zinc was found to be 27.25% instead of 39.5%. Show cause notices were issued to the manufacturers, dealer, marketing firm and its office bearers/employees.

3. As per the further allegations, on the request of the marketing firm, the reference sample was sent for retesting to the office of Director Central Quality Control and Training Institute, Faridabad but the same was still found to be misbranded. Hence, by alleging that M/s Tirupati Khad Bhandar and accused Sandeep, being proprietor and responsible person of this

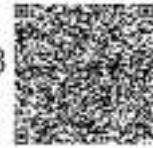
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dealer firm, petitioner No. 1-M/s FMC India Private Limited and petitioner No. 2 being responsible person of this marketing firm along with manufacturers and other accused had committed aforementioned offences, prayer was made for summoning them to face trial for commission of such offences. After presentation of the complaint, preliminary evidence was led and finding a prima facie case for commission of aforementioned offences, the impugned order dated 07.12.2019 was passed by the learned trial Court, thereby summoning the petitioners and other accused to face trial therein.

4. It is argued by learned counsel for the petitioners that the impugned complaint as well as the summoning order dated 07.12.2019 are not sustainable in the eyes. Petitioner No. 1 is only a marketing company which is registered under the provisions of the Companies Act, 1956 and deals in crop protection, crop nutrition and professional pest management. It works in partnership with its customers to deliver solutions that meet the needs of its customers. Petitioner No. 2 was its employee. It is further argued that since the petitioners were only a marketing firm and its employee, respectively, they could not be held responsible, in any manner, for the sub-standard fertilizer contained in the bags from which three samples had been drawn by the complainant. A perusal of the allegations levelled in the complaint would show that there was no allegation that the bags had been tampered with when the samples were taken from the premises of M/s Tirupati Khad Bhandar. Therefore, the liability, if any, can be fastened only upon the manufacturer firm i.e. M/s P. L. Agro Technologies, Tamil Nadu and not upon the petitioners. It is, therefore, submitted that the impugned complaint as well as

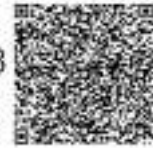
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the summoning order are not sustainable against the petitioners and are liable to be quashed qua them. To fortify his arguments, learned counsel for the petitioners has relied upon the authorities cited as *Arun Kumar and others vs. State of Punjab, 1995 (3) RCR (Criminal) 231, M/s Tata Chemicals Ltd. and another vs. State of Punjab, 2013 SCC Online P&H 5630, S.S. Bhalotia vs. State of Haryana, 2014 (2) RCR (Criminal) 203, Manoj Grover vs. State of Punjab, CRM-M-4582-2008, decided on 15.12.2009, Kehar Singh vs. State of Punjab and another, CRM-M-8021-2010, decided on 15.09.2011, Ghanvir Singh vs. State of Punjab & another, CRM-M-28723-2010, decided on 30.07.2012 and M/s Tata Chemicals Ltd. & another vs. State of Punjab, CRM-M-14123-2016, decided on 19.04.2024.*

5. Reply has been filed by the respondent-State. It is argued by learned Assistant Advocate General, Haryana that there is no illegality or infirmity in the impugned order, whereby the petitioners along with the co-accused have been summoned to face trial. The due procedure had been followed while drawing the samples and sending them for testing and while issuing show cause notices. Petitioner No. 1, being the marketing company, and petitioner No. 2, being its responsible person, were equally responsible for the quality of fertilizer, which was marketed by them and a sample of which had been taken from the stockiest/dealer namely M/s Tirupati Khad Bhandar. Since the subject offences were *prima facie* established against the petitioners, no case for quashing of the impugned complaint and summoning order dated 07.12.2019 has been made out. Hence, it is urged that the petition is liable to be dismissed.

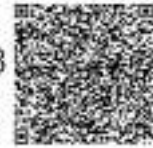
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6. This Court has heard the rival submissions, besides perusing the material placed on record carefully.

7. At the outset, it is apposite to notice that this Court has consistently taken a view that a dealer or marketing entity cannot be held criminally liable under Section 7 of the Essential Commodities Act, 1955 read with the Fertilizer (Control) Order, 1985, in the absence of any allegation of tampering, improper storage or involvement in the manufacturing process. In ***Arun Kumar's case (supra)***, this Court held that where fertilizer bags were received by the dealers in their original machine-stitched condition from the manufacturer and there was no evidence of intermeddling or tampering, the dealers could not be attributed any culpable mental state and any deficiency in the fertilizer could only be attributable to the manufacturer. The conviction of the dealers was accordingly set aside on the ground that responsibility for any manufacturing defect lay exclusively with the manufacturer and not with the retailers who merely sold sealed bags as received. The same principle was reiterated in ***M/s Tata Chemicals and another v. State of Punjab, 2013 SCC OnLine P&H 5630***, wherein this Court held that the liability of a marketing company does not arise when samples are drawn from sealed packing and there is no material to suggest that the bags were torn, tampered with or improperly stored. The Court clearly held that, in such circumstances, criminal prosecution of a marketing company or its officers is legally untenable and the liability, if any, rests with the manufacturing company. Likewise, in ***S.S. Bhalotia's case (supra)***, it was held that where the accused were neither manufacturers nor shown to have interfered with the sealed bags

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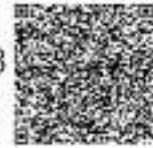


of fertilizer, their prosecution under the Fertilizer Control Order could not be sustained and deserved to be quashed.

8. This aforementioned consistent line of reasoning was thereafter crystallized in ***Manoj Grover's case (supra)***, wherein this Court categorically held that no offence under Section 7(1)(a) of the Essential Commodities Act is made out against a dealer when the fertilizer sample is drawn from duly stitched and sealed bags, procured from an authorized source, and there is no allegation of tampering. The Court unequivocally held that responsibility for sub-standard fertilizer, if any, can be fastened only upon the manufacturer and not upon the dealer or marketing firm having no control over the manufacturing process. The aforesaid principle was further elaborated in ***Kehar Singh's case (supra)***, wherein it was held that when Form 'J' does not record any irregularity, tampering, defective packaging or improper storage, the prosecution cannot subsequently seek to draw adverse presumptions against the dealer during the course of arguments. It was further held that in the absence of any evidence connecting the dealer with the manufacturing of the fertilizer or showing knowledge of any defect, liability cannot be extended to the dealer and only the manufacturer can be held accountable for failure of the sample.

9. Similarly, in ***Ghanvir Singh's case (supra)***, it was held by this Court that marketers or importers cannot be prosecuted when the record itself reflects that the fertilizer bags were found stitched and sealed at the time of sampling and there is no allegation that the petitioners were associated with the manufacturing process in any manner and in such circumstances, the

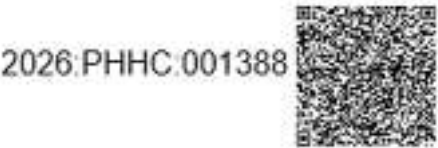
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marketers cannot be made to answer for the contents of the fertilizer and that any deficiency detected in the sample is attributable solely to the manufacturer.

10. Thus, a cumulative reading of the aforesaid judgments leaves no room for doubt that the Fertilizer (Control) Order, 1985 does not impose strict or vicarious criminal liability upon dealers or marketing companies. Criminal culpability under the Essential Commodities Act can arise only where there are specific allegations and supporting material indicating tampering, improper storage, knowledge of sub-standard quality, or direct involvement in manufacture. Where fertilizer is found in its original sealed and stitched condition and none of these elements are present, continuation of criminal proceedings against a dealer or marketing entity amounts to a clear abuse of the process of the Court and warrants interference in exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

11. On applying the above discussed principles of law to the peculiar facts and circumstances of the present case, it is revealed that it is an admitted and undisputed position that the petitioners are merely a marketing firm and its employee, respectively, who had supplied the fertilizer in question to M/s Tirupati Khad Bhandar, Julana. It is also not in dispute that the petitioners are not the manufacturers of the fertilizer in question, which admittedly stands manufactured by M/s P. L. Agro Technologies, Tamil Nadu. It is worth mentioning that the said manufacturing firm and its responsible person, namely Mr. S. R. Vijay Anand, have already been arrayed as accused in the impugned complaint and have been summoned to face trial, thereby



acknowledging that the responsibility for the quality and composition of the fertilizer primarily lies with the manufacturer. There is no allegation whatsoever in the impugned complaint to suggest that the petitioners had any role in the manufacturing process or that they had tampered with the sealed bags, misbranded the product or were aware of any defect or sub-standardization at any stage. In the absence of any such allegation or material, the petitioners, who acted merely as marketing intermediaries dealing with the fertilizer in its original sealed condition, cannot be fastened with criminal liability for alleged misbranding or sub-standard quality. Keeping in view the discussion as made above, this Court is of the considered opinion that subjecting the petitioners to a criminal trial would serve no legitimate purpose and would amount to nothing but a misuse and abuse of the process of law. Accordingly, finding merit in the petition, the same is allowed. The impugned complaint and the summoning order dated 07.12.2019 along with all the subsequent proceedings having emanated therefrom are hereby quashed qua the petitioners herein only.

14.01.2026	(MANISHA BATRA)
<i>Waseem Ansari</i>	JUDGE
<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>