

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

2026:PHHC:073683



CRM-M-23925-2018 (O&M)

M/s Bajaj Agro, Sirhind and another ...Petitioners

Versus

State of Punjab and others ...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	11.05.2026
2	The date when the judgment is pronounced	13.05.2026
3	The date when the judgment is uploaded on the website	13.05.2026
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. Rakesh Sobti, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

None for respondents No. 2 and 4.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 482 of the Code of Criminal Procedure (*for short ‘the Code’*), is for quashing of Complaint bearing No. COMA/14/2018, dated 26.02.2018, titled as ***State vs. M/s Bajaj Agro, Sirhind and others***, filed under Sections 3k(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 (*for short ‘the Act, 1968’*) read with Rule 27(5) of the Insecticides Rules, 1971 along with all the subsequent proceedings having

emanated therefrom including order dated 15.03.2018 (Annexure P-2), passed by the Court of learned Chief Judicial Magistrate, Fatehgarh Sahib, 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 respondent-State against seven persons/firms, who were either dealer, supplier, distributor or manufacturer under the provisions of the Act, 1968. Petitioner No.1 is a licensed dealer firm engaged in sale of insecticides and pesticides, whereas petitioner No.2 is its proprietor. As per the allegations made in the impugned complaint, on 07.07.2012, the Insecticide Inspector visited the premises of the petitioner-firm and drew samples of Butachlor 50% EC from originally sealed and packed containers kept for sale. Upon analysis by the Insecticide Testing Laboratory, Amritsar, the sample was initially reported to be misbranded as the active ingredient was found to be 34.04% instead of 50%. Thereafter, on the request of the accused, the second sample was sent to the Central Insecticides Laboratory, Faridabad for re-analysis, wherein the active ingredient was found to be 52.86% as against the declared 50%. Subsequently, after issuance of show-cause notice and consideration of the reply submitted by the petitioners, the complaint came to be instituted against the petitioners and other accused alleging violation of Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968.

3. On presentation of the complaint and after considering the preliminary evidence led by the complainant, the learned Magistrate had summoned the petitioners and other co-accused 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 30.05.2018, while issuing notice of motion, further proceedings before the learned trial Court were stayed by this Court.

4. It is argued by learned counsel for the petitioners that they are merely licensed dealers/sellers and not the manufacturers of the insecticide in question, which admittedly was purchased from a duly licensed manufacturing company in sealed and packed condition. It is argued that the sample was drawn from originally sealed containers and there is no allegation whatsoever that the petitioners had tampered with the contents or altered the product in any manner. Therefore, no criminal liability can be fastened upon the petitioners for any alleged manufacturing defect. It has further been argued that the complaint itself records that the insecticide was manufactured by the manufacturing company and the petitioners were only sellers thereof. Even as per the averments made in the complaint, the dealer-firm had purchased the product from the manufacturer and had stored the same properly in the condition in which it was acquired.

5. Learned counsel for the petitioners has further argued that the proceedings against the petitioners under the impugned complaint are barred in view of the statutory protection available under Section 30(3) of the Insecticides Act, 1968, which exempts a seller from liability where he proves that the insecticide was acquired from a duly licensed manufacturer/distributor, that he had no knowledge and could not with reasonable diligence ascertain any defect therein, and that the product remained properly stored and in the same condition while in his possession. It is submitted that all the ingredients of the said protection stand satisfied in the present case. However, the

Magistrate concerned mechanically passed the summoning order without appreciating the material on record and without considering that no specific role or overt act has been attributed to the petitioners. The continuation of criminal proceedings against the petitioners is thus stated to be an abuse of the process of law. It is also argued that there is an unexplained and inordinate delay of nearly six years in filing the complaint, as the sample was drawn on 07.07.2012 whereas the complaint was instituted only on 26.02.2018. No explanation has been furnished in the complaint regarding such extraordinary delay, which itself vitiates the prosecution proceedings. Hence, 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*.

6. *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 conforming to 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

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

7. It is worth mentioning that vide order dated 16.09.2024, the names of respondents No. 5 and 6 were deleted from the array of parties as no relief was claimed against them. Similarly, the name of respondent No. 3 was also deleted from the array of parties, vide order dated 11.05.2026. It is also significant to note that when on 11.05.2026, the final arguments were heard in this case, there was no representation on behalf of respondents No. 2 and 4. Rather, they have never appeared before this Court.

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

9. 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 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”.***

10. 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 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.”

11. 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:

“8. Admittedly, the petitioners are not the manufacturers of the insecticides but the dealer and the distributor. Hence, they cannot 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”

12. 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*.

13. In the case at hand, admittedly, the petitioners are only licensed dealers/sellers of the insecticide in question and are not the manufacturers thereof. The samples were drawn from originally sealed and packed containers and there is no allegation in the complaint that the petitioners had either tampered with the contents of the insecticide or stored the same in an improper

manner. Even otherwise, the complaint itself acknowledges that the insecticide had been manufactured by the manufacturing company from whom the petitioner-firm had purchased the product in ordinary course of business. Thus, prima facie, the petitioners are entitled to the protection envisaged under Section 30(3) of the Act, 1968. Furthermore, the complaint has been instituted after an unexplained delay of almost six years from the date of sampling and no satisfactory explanation has been furnished by the complainant in this regard. The controversy involved in the present case is no longer res integra and stands squarely covered by the judgments noticed hereinabove, wherein under similar circumstances, the complaints and consequential proceedings were quashed qua the dealers and distributors. Therefore, continuation of the criminal proceedings against the present petitioners would amount to abuse of the process of law. In view of the discussion made above, this Court is of the considered opinion that the petition deserves to be allowed. Accordingly, the same is allowed and the impugned Complaint No. COMA/14/2018 dated 26.02.2018 along with summoning order dated 15.03.2018 and all consequential proceedings arising therefrom are hereby quashed qua the present petitioners.

13.05.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>