

CRM-M-7445-2020 (O & M)

2025:PHHC:114431



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

(274+281)

**Reserved on : 25.08.2025
Date of Decision:27.08.2025**

1. CRM-M-7445-2020 (O&M)

Raghuram ShettyPetitioner(s)

Versus

State of Punjab . . .Respondent

2. CRM-M-44734-2023 (O&M)

Jagjeet Singh DhaliwalPetitioner(s)

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate,
with Mr. Rajat Singh, Advocate and
Mr. Ekteshwar Singh, Advocate,
for the petitioner(s) in both the petitions.

Mr. M.S. Toor, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions i.e. **CRM-M-7445-2020** preferred by the petitioner-Raghuram



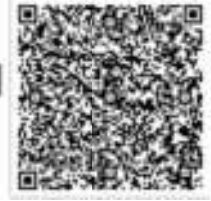
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Shetty as they arise out of a same complaint bearing No.COMA/6505/2019 dated 31.05.2019/01.06.2019 (Annexure P-1) and the summoning order dated 13.08.2019 (Annexure P-4).

2. The prayer in the present petitions is for quashing of the complaint No.COMA/6505/2019 dated 31.05.2019/01.06.2019 titled as 'State through Jasbir Kaur versus M/s Pandher Enterprises and other' (Annexure P-1), the summoning order dated 13.08.2019 (Annexure P-4) whereby the petitioners have been summoned to face Trial under Sections 3(k)(1), 17, 18, 29 and 33 punishable under Section 29 of the Insecticide Act, 1968 read with Rules 27(5) of the Insecticide Rules 1971 and all consequent proceedings arising therefrom.

3. For the sake of convenience, the facts being are taken from CRM-M-7445-2020.

4. The brief facts are that one complaint dated 31.05.2019 was filed by Insecticide Inspector-Jasbir Kaur against M/s Pandher Enterprises and others stating therein that upon checking the stock of Insecticides lying in the premises of the dealer-M/s Pandher Enterprises, she had found 20-250 ml stock of Insecticide CHLORPYRIPHOS 20% EC bearing batch No.HB 15036 having date of manufacturing date 02.02.2016 and date of expiry 01.02.2018. The same were stated to be manufactured by M/s Heranba Industries Limited. Three samples were selected which were in sealed container and were thereafter sent for testing after following due procedure as established under the law. The tests were conducted by the



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Insecticide Testing Laboratory, Amritsar on 14.02.2017 and as per the report it was found that the samples contained 0.42% active ingredient contains of CHLORPYRIPHOS instead of CHLORPYRIPHOS 20% EC. Thereafter, a show cause notice was served on the dealer firm and M/s Heranba Industries Limited upon which they submitted their reply. Upon submission of the reply the samples were sent for reanalysis to the Central Insecticide Laboratory, Faridabad. The Central Forensic Laboratory gave its report dated 21.04.2017 stating that the samples contained 4.86% active ingredient of CHLORPYRIPHOS instead of CHLORPYRIPHOS 20% EC. After following the procedure, the present complaint COMA/6505 of 2019 was filed by the Insecticide Inspector-Jasbir Kaur. The copy of the complaint is attached as Annexure P-1.

5. Based on the aforementioned complaint (Annexure P-1), the petitioners alongwith other persons came to be summoned to face trial under Sections 3(k)(1), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Act, 1971. The copy of the said order is attached as Annexure P-4.

6. The aforementioned complaint (Annexure P-1) and summoning order (Annexure P-4) are under challenge in the instant petitions.

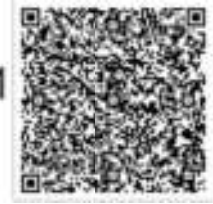
7. The learned counsel for the petitioners contends that in terms of Section 33 of the Insecticides Act, 1968, the petitioners could not have been summoned to face Trial when as per the licence issued to the



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company- M/s Heranba Industries Limited, one Sh. CH. Srinivasa Rao was the General Manager (Quality control) and therefore, was the only officer liable to be summoned to face Trial. The petitioners who were the Executive Director and Regional Manager respectively, though, responsible persons were not liable for quality control and therefore, could not have been summoned to face Trial. Reliance is placed on *M/s Cheminova India Ltd. and Anr. Versus State of Punjab and Anr. 2021(3) RCR (Criminal) 750, Raghuram K. Shetty versus State of Punjab and Jagjeet Singh Dhaliwal versus State of Punjab (CRM-M- No.31263 of 2016 and CRM-M-No.17759 of 2017 decided vide a common order dated 16.09.2022), Raghuram K. Shetty versus State of Punjab, Jagjeet Singh Dhaliwal versus State of Punjab and Mohinder Pal Singh and another versus State of Punjab (bearing CRM-M- Nos.43782 and 22938 of 2015 and CRM-M-17858-2017 decided vide a common order dated 16.09.2022) and Amarjit Singh and another versus State of Punjab (CRM-M-54573-2019 decided on 22.08.2022).*

8. The learned counsel for the State has not disputed either the factual position of petitioner-Raghuram Shetty (in CRM-M-7445-2020) being an Executive Director and the petitioner-Jagjeet Singh Dhaliwal (in CRM-M-44734-2023 being a Regional Manager as also the fact that Sh. Ch. Srinivasa Rao was the General Manager and was responsible for the quality control. He, however, submits that all the accused are liable to face Trial for the offences in question.



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9. I have heard the learned counsel for the parties.
10. It would be apposite to refer to the provisions of Section 33 of the Insecticides Act which reads as under:-

33. Offences by companies.-

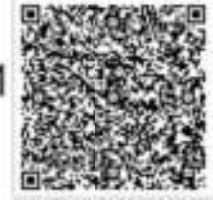
(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purpose of this section:--

(a) "company" means any body corporate and includes a firm or other association of individuals; and



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(b)"director", in relation to a firm, means a partner in the firm.

11. The Hon'ble Supreme Court in '***M/s Cheminova India Ltd. and Anr. Versus State of Punjab and Anr. 2021(3) RCR (Criminal) 750***', held as under:-

16. Learned Counsel for the appellants by referring to Section 33 of the Act has submitted that appellants have already filed an undertaking dated 22.01.2013 before the respondents, nominating the incharge and responsible officers of the Company to maintain quality of the pesticides manufactured by the Company along with the resolution of the Company's meeting held on 28.12.2012. Learned Counsel has submitted that by making vague and bald allegations, the appellants, who were the Company and the Managing Director, are also sought to be prosecuted.

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19. Section 33 of the Act deals with 'offences by companies'. A reading of Section 33(1) of the Act, makes it clear that whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, or 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 and shall be liable to be proceeded against and punished accordingly. In the case on hand, it is not in dispute that on behalf of the 1st Appellant -Company, 2nd Appellant - Managing Director has furnished an undertaking dated 22.01.2013, indicating that Shri Madhukar R. Gite, Manager of the Company, has been nominated in the resolution passed by the Company on 28.12.2012



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to be in charge of and responsible to the said Company, to maintain the quality of the pesticides manufactured by the said Company and he was authorized to exercise all such powers and to take all such steps, as may be necessary or expedient to prevent the commission of any offence under the Act. Filing of such undertaking with the respondent is not disputed. Even, at Para 5.10 in the counter affidavit filed before this Court, it is pleaded by the Respondents that by appointing persons responsible for affairs of the Company, quality control, etc., 2nd Appellant -Managing Director cannot escape his liability from offences committed by 1st Appellant - Company. In view of the specific provision in the Act dealing with the offences by companies, which fixes the responsibility and the responsible person of the Company for conduct of its business, by making bald and vague allegations, 2nd Appellant - Managing Director cannot be prosecuted on vague allegation that he being the Managing Director of the 1st Appellant-Company, is overall responsible person for the conduct of the business of the Company and of quality control, etc. In the instant case, the Company has passed a resolution, fixing responsibility of one of the Managers namely Mr. Madhukar R. Gite by way of a resolution and the same was furnished to the respondents by the 2nd Appellant in shape of an undertaking on 22.01.2013. When furnishing of such undertaking fixing the responsibility of the quality control of the products is not in dispute, there is no reason or justification for prosecuting the 2nd Appellant - Managing Director, on the vague and spacious plea that he was the Managing Director of the Company at the relevant time. A reading of Section 33 of the Act also makes it clear that only responsible person of the Company, as well as the Company alone shall be deemed to be guilty of the offence and shall be liable to be proceeded against. Though, the Managing Director is overall incharge of the affairs of the company, whether such officer is to be prosecuted or not, depends on the facts and circumstances of each



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case and the relevant provisions of law. Having regard to specific provision under Section 33 of the Act, and the undertaking filed in the present case, respondent cannot prosecute the 2nd Appellant herein. Thus, we find force in the contention of Mr. Sidharth Luthra, learned Senior Counsel, that allowing the prosecution against 2nd Appellant - Managing Director is nothing but, abuse of the process of law. At the same time, we do not find any ground at this stage to quash the proceedings against the 1st Appellant-Company.

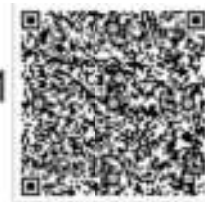
12. The aforementioned dictum has been followed by this Court in ***Raghuram K. Shetty versus State of Punjab and Jagjeet Singh Dhaliwal versus State of Punjab (CRM-M- No.31263 of 2016 and CRM-M-No.17759 of 2017 decided vide a common order dated 16.09.2022), Raghuram K. Shetty versus State of Punjab, Jagjeet Singh Dhaliwal versus State of Punjab and Mohinder Pal Singh and another versus State of Punjab (bearing CRM-M- Nos.43782 and 22938 of 2015 and CRM-M-17858-2017 decided vide a common order dated 16.09.2022) and Amarjit Singh and another versus State of Punjab (CRM-M-54573-2019 decided on 22.08.2022).***

13. A perusal of the aforementioned judgments would establish beyond doubt that where a particular officer of the company has been made incharge of quality control, that officer alongwith the company is liable to face Trial and not any and every other officer.

14. Coming back to the facts of the present case, the licence issued to the company-M/s Heranba Industries Limited is reproduced as under:-

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Government of Punjab
FORM VIII
[See Rule-10 (4)]

Licence to Sell, Stock or Exhibit for Sale or Distribution of Insecticides

Licence No. LCPP/ADO-04/454

Date: 15.06.2004, Chandigarh

1. M/s Heranba Industries Ltd., Plot No.1505/1506, GIDC, Phase III, Vapi Distt Valsad (Gujrat) is hereby licensed to sell, stock or exhibit for sale or distribute by retail, insecticides enlisted at Statement No.2 on the premises situated at M/s Heranba Industries Ltd, at GK Agro Services, Backside Nirankari Bhawan, Malout Road, Bathinda (Pb) subject to conditions specified below and to the provisions of the Insecticides Act, 1968, and the rules there under.

2. Licence shall be in force from 15.06.2004
3. Licence is valid from 01.01.2015 to 31.12.2016
4. a) List of Responsible persons : Statement No.1
- b) List of Insecticides : Statement No.2

Licensing Authority

CONDITIONS

1. The Licence shall be displaced in a prominent place in the part of the premises open to the public.
2. The Licensee shall comply with the provisions of the Insecticides Act, 1968 and the rules made thereunder for the time being in force.
3. No insecticides shall be sold or distributed except in packages which are or may be approved by the Indian Standards Institution from time to time.
- 3-B If the licensee wants to sell, stock or exhibit for sale or distribute any additional insecticides during the currency of the license he may apply to the Licensing Officer for issuance of separate licenses for each Insecticide on payment of the prescribed fee.
4. (An application for the renewal of a license shall be made as laid down in rule 11).

Contd.--1/2

STATEMENT NO-1

M/s Heranba Industries Ltd..
Bathinda, Punjab

Licence No.

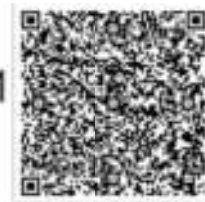
LCPP/ADO-04/454

Issue Date:

15.06.2004

Valid up to:

31.12.2016



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List of Responsible persons

Sr. No.	Name	Designation	Responsible
1.	Sh Raghuram K Shetty S/o Sh Kanyan Pakeera Shetty	Executive Director	-----
2.	Sh. Ch. Srinivasa Rao S/o Sh Venkataratnam	General Manager	Quality Control
3.	Sh Jagjeet Singh Dhaliwal S/o Sh Gurdev Singh Dhaliwal	Regional Manager	Godown Incharge Conduct of Business & Authorised Signatory

Licensing Authority

15. A perusal of the list of responsible persons would show that Raghuram Shetty (petitioner in CRM-M-7445-2020) is shown as Executive Director and Jagjeet Singh Dhaliwal (petitioner in CRM-M-44734-2023) is shown as a Regional Manager. However, it is only Sh. Ch. Srinivasa Rao- General Manager who is responsible for quality control. In view of the dictum laid down in *M/s Cheminova India Ltd. and Anr. Versus State of Punjab and Anr.2021(3) RCR (Criminal) 750, Raghuram K. Shetty versus State of Punjab and Jagjeet Singh Dhaliwal versus State of Punjab (CRM-M- No.31263 of 2016 and CRM-M-No.17759 of 2017 decided vide a common order dated 16.09.2022), Raghuram K. Shetty versus State of Punjab, Jagjeet Singh Dhaliwal versus State of Punjab and Mohinder Pal Singh and another versus State of Punjab (bearing CRM-M- Nos.43782 and 22938 of 2015 and CRM-M-17858-2017 decided vide a common order dated 16.09.2022) and Amarjit Singh and another versus State of*



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Punjab (CRM-M-54573-2019 decided on 22.08.2022) it is he alongwith the company-M/s Heranba Industries Limited who is liable to face Trial.

In fact, as mentioned above, the petitioners have been summoned in earlier complaints and this Court has quashed the said complaints applying the same dictum of law.

16. In view of the above discussion, the filing of the complaint No.COMA/6505/2019 dated 31.05.2019/01.06.2019 titled as ‘State through Jasbir Kaur versus M/s Pandher Enterprises and other’ (Annexure P-1), the passing of the summoning order dated 13.08.2019 (Annexure P-4) in the respective petitions are nothing but an abuse of process of the Court qua the petitioners and therefore, the same stand quashed qua the petitioners alone.

18. The present petitions are disposed of in the above terms.

19. The pending application(s), if any, shall stand disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

August 27, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No