

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

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**CRM-M-10531-2025 (O&M)**

**Date of Decision: 03.03.2025**

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M/s Mosaic India P.Ltd. & Anr.

... Petitioners

VS.

State of Punjab

... Respondent

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**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

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Present: Mr. NK Manchanda, Advocate for the petitioners

Mr. Jaspal Singh Guru, AAG Punjab

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**Sandeep Moudgil, J. (Oral)**

(1). This petition under Section 528 BNSS has been filed by the petitioners with a prayer to quash the criminal complaint No.COMA/40/2021 dated 17.09.2021 titled as "*State vs. M/s Rakesh Kumar Aggarwal & Ors.*" (Annexure P1) under Section 19(a) of the Fertilizer (Control) Order, 1985 (in short, the FCO) read with Section 3 of the Essential Commodities Act (in short, the Act) punishable under Section 7 of the said Act *qua* the petitioners as well as the summoning order dated 23.11.2021 (Annexure P2) and the order dated 18.11.2024 (Annexure P11) and all consequential proceedings arising therefrom.

(2). Learned counsel for the petitioners submits that the Fertilizer Inspector drew the sample of the Fertilizer in question from the Original Packed bag of 25Kg from the Dealer Firm as supplied by the petitioners/importer and marketing Company. He submits that the petitioners imported the said fertilizer Potassium Magnesium Sulphate in India on 14.08.2017 and at that time the quality of the said fertilizer was analysed by the Assistant Director Fertilizer Quality Control, Ministry of Agriculture &

Farmers Welfare (Deptt. Of Agriculture, Cooperation & Farmers Welfare), Central Fertilizer Quality Control & Trading Institute, Faridabad (Haryana) on 14.08.2017 and as per their report, the fertilizer met the FCO specifications which was supported by the laboratory of Inspectorate America Corporation, Agri Division, Webster, Texas (Annexure P-12). He then urged that the petitioners, who are the importer & supplier company and its employee are not the manufacturer of the fertilizer in question and therefore, they cannot be proceeded against for the alleged contravention of Regulation 19(1)(a) of the Fertilizer Control Order.

(3). Another argument raised is that at the time of the taking sample of fertilizer in question, the mandatory requirement as provided in Schedule II of FCO has not been complied with by the fertilizer Inspector while taking the sample that is why there is variations of the three laboratories while testing the fertilizer in question. Further, as per the Government Laws, no fertilizer can be sent to market if the same is imported one, unless the same has been analysed at the port and thus the petitioners cannot be held at fault because the sample of fertilizer in question has already been passed by the Central Laboratory, Faridabad, moreso when there are conflicting reports of three laboratories and such reports are not sustainable in the eyes of law and as such, the petitioners being importer and supplier are not responsible for the quality of the fertilizer and the complaint (Anx.P-1) as well as the other proceedings *qua* petitioners is liable to be quashed.

(4). Learned counsel contends that the complaint as well as the consequential proceedings against the petitioners are bad in law for the reason that the analysis report is of dated 27.11.2018 and the last report is dated

27.08.2019, but the present criminal complaint (Annexure P-1) was filed on 14.09.2021 i.e. after more than 2 years and the delay in filing the complaint has not been explained by the respondents and in the present case the offence, if any, committed by the petitioners is punishable for one year and the prosecution could be launched within a period of one year only as per provision of Section 12A of the Act. He then submits that under section 7(1) of the Essential Commodities Act, the maximum punishment is one year and fine if the contravention of clause (h)(i), sub-section (2) of section 3 and for other clauses, the punishment of imprisonment may extend upto seven years, however, in the complaint, there is no reference to any clause of section 3 of Act and even as per provisions of Section 514 BNSS (Section 468 CrPC), no cognizance can be taken after the period of one year, if the punishment is one year and as per Act, the punishment is upto one year. Reliance has been placed on *Nohar Chand Gupta Vs. State of Punjab 1984 (2) RCR CrL 34;* *M/s Puran Sales Corporation, Jalalabad vs. State of Punjab 1995(2) RCR CrL 121.*

(5). Heard learned counsel for the petitioners.

(6). It appears that a complaint was filed by the Chief Agriculture Officer, Tarn Taran under Section 19 (a) of FCO read with Section 3 and punishable under Section 7 of the Act. The last report from the Laboratory is of dated 27.08.2019 and the present complaint was filed on 17.09.2021 whereas limitation to file the present complaint was argued to be one year as the offence punishable under Section 7 of the Act is one year. From a perusal of the complaint, it would show that the offence alleged falls under Section 3(2)(f) of the 1955 Act inasmuch as, the petitioners were holding the stock

and were in the business of buying and selling of fertilizer product which is essential commodity as per Government Notification. That apart the offence under Section 3(2)(f) of the Act is punishable under Section 7(1)(a)(ii) of the Act, which is reproduced as under:-

*“7. Penalties.— 1 [(1) If any person contravenes any order made under Section 3,—*

*(a) he shall be punishable,—*

*(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and*

*(ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:*

*Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months”*

(7). A perusal of the above would show that if any person contravenes any order made under Section 3, he shall be punishable in the case of an order made under reference to clause (h) or clause (i) of Sub Section (2) of that Section with imprisonment for a term which may extend to one year and shall also be liable to fine and clause (ii) says that in case of any other order, with imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine. It may be noted that certain offences shall be punishable for imprisonment up to 1 year only and certain other offences as provided under Section 7(1)(a)(ii) which are other than clause (h) or (i) of sub-Section (2) of Section 3 shall be punishable with imprisonment upto 7 years as is the position in the present case. It thus cannot be said that the limitation to file the complaint was only

one year under Section 468 CrPC. Section 468 of the Code of Criminal Procedure provides as follows :

*“Bar to taking cognizance after lapse of the period of limitation.- (1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub- section (2), after the expiry of the period of limitation.”*

(8). On plain reading of the aforesaid sections it is clear that for the offence which is punishable for a maximum period of one year the limitation provided under Section 468 Cr.P.C. is one year though the law maker has provided for extension of period of limitation in certain cases on the court being satisfied of the facts and circumstances of the case that delay is properly explained and that is necessary to show the interest of justice but in the present case no application has been filed by police for extension of period of limitation nor any reason has been assigned by learned court below for not taking cognizance within a period of one year.

(9). Under the Essential Commodities Act, 1955, the limitation period for filing a complaint is indeed three years. This is consistent with the provisions outlined in the Act, which govern the time frame within which legal actions can be initiated regarding offences under this legislation. Specifically, Section 468 CrPC applies to offences under various laws including the Essential Commodities Act and sets a limitation period of three years for filing complaints for offences punishable with imprisonment for a term exceeding one year but not exceeding three years. This means that if an offence under the Essential Commodities Act is punishable by imprisonment for a maximum of three years, a complaint must be filed within three years

from the date of the offence. Therefore, in the facts and circumstances of the case, the limitation to file complaint has to be 3 years and not 1 year, for the maximum punishment under Section 7 of the 1955 Act is 7 years.

(10). The judgments relied upon by the learned counsel for the petitioners does not apply to the case in hand wherein the offences of sub-standard quality has been prima facie made out in the light of Analyst reports relied upon by the complainant and therefore, the offences alleged against the petitioners being a company under Section 10(1)(2) of the 1955 Act cannot be said to be not made out for which the sentence punishable is upto 7 years as per Section 7 of the 1955 Act.

(11). Dismissed.

(12). Anything stated hereinabove, shall have no bearing on the merits of the case before the trial court.

03.03.2025

*V.Vishal*

1. *Whether speaking/reasoned?*

2. *Whether reportable?*

**(Sandeep Moudgil)**  
**Judge**

*Yes/No*

*Yes/No*