



CRM-M-42584-2024

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

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**CRM-M-42584-2024 (O&M)
Reserved on : 28.07.2025
Date of Pronouncement : 04.08.2025**

Lalit Bansal

... Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

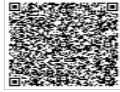
Present:- Mr. Aman Kashyap, Advocate for the petitioner.

Mr. Kamalpreet Bawa, DAG, Punjab.

H.S. Grewal, J.

1. This petition has been filed under Section 528 BNSS praying for quashing of complaint dated 12.02.2018 (Annexure P-1) titled as 'State of Punjab versus M/s Mittal Pesticides and others' pending in the Court of the Judicial Magistrate 1st Class, Sangrur bearing COMA/17/2018. Further prayer has also been made to quash the order dated 22.11.2023 (Annexure P-2) passed by the Additional Chief Judicial Magistrate, Sangrur vide which the petitioner was declared as a proclaimed person.

2. The case of the prosecution is that a complaint dated 12.02.2018 was filed by respondent No.1 under Sections 3(K)(1), 17, 18, 29, 33 of the Insecticide Act, 1968 against the present petitioner along with respondents No.2 to 10 wherein it had been alleged that on 23.07.2014, Amandeep Kaur, Insecticide Inspector had allegedly inspected the premises of respondent No.2

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i.e. M/s Mittal Pesticides Balyal Road, Bhawanigarh, District Sangrur, in the presence of Rajinder Singh, Agriculture Extension Officer where Akshay Mittal S/o Sh. Vijay Kumar was present and selling and stocking pesticide including Cartap Hydrochloride 4% GR brand Veertap Batch No.VTPSA4043, date of manufacturing 06.02.2014, expiry date 05.02.2016. It was a 05 Kg pack and the total stock was 1000 Kg (200 x 5 Kg). The said pesticide was purchased by the dealer from the distributor i.e. M/s Goyal Khad Bhandar(respondent No.4), being manufactured by M/s Saraswati Agro Chemicals (India) Pvt. Ltd. Punjab(respondent No.6). The said Insecticide Inspector allegedly took a sample of Cartap Hydrochloride 4% GR (brand name Veertap) bearing Batch No.VTPSA4043. A loose sample from 5 Kg packing i.e. 3 portions each (250 gram x 3) of volume were taken and put into three cloth bags with three copies of Form No.XXI in which details of sample were given. Out of three samples, one sealed sample was given to respondent No.3 i.e. Akshay Mittal (responsible person) and remaining two samples were submitted with the office of Chief Agriculture Officer Sangrur. As per the test report of the Senior Analyst Insecticide Testing Laboratory, Bathinda, the said sample was not confirming to IS specifications containing only 3.14% GR active ingredient against 4% GR as printed on the label of container & hence sample was declared misbranded. Akshay Mittal was mentioned as 'responsible person' of M/s Mittal Pesticides, for sale and stocking of misbranded pesticide while respondent No.6-M/s Saraswati Agro Chemicals (India) Pvt Ltd., who is the manufacturing company, was nominated through the petitioner (Director) and Raj Kumar Chander-respondent No.7 (Responsible person for quality control)



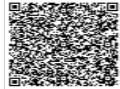
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for sale and manufacturing of the abovesaid misbranded Insecticide and therefore, they were summoned to face trial.

3. Learned counsel for the petitioner submits that the petitioner, who is Director of company/respondent No.6-M/s Saraswati Agro Chemicals (India) Pvt. Ltd. has been nominated for maintaining the quality of the products, however, the complainant had not specifically averred in the complaint that in what manner the petitioner was responsible for the conduct of the business of the company and what were their duties and responsibilities except mentioning the word 'responsible person', which is not sufficient in terms of Section 33 of the Insecticides Act. He also submits that vide resolution dated 01.05.2014 passed by the Board of Directors of respondent No.6-Company, one Raj Kumar Chander-respondent No.7, who is Manager and Country Head for Quality Control was declared as responsible person for the quality of products manufactured by the Company and he had also been nominated in the instant complaint. A copy of the resolution dated 01.05.2014 is at Annexure P-39. Therefore, learned counsel submits that the nomination of the petitioner is an abuse of process of law and the complaint against him is liable to be quashed. In support of his submissions, he has relied upon the judgment of Hon'ble the Supreme Court in the case of *“State of NCT of Delhi vs. Rajiv Khurana” 2010(3) RCR (Criminal) 912* in which it was observed that every Director need not be and is not in charge of the business of the company and the complainant is required to state as to how he was Incharge of the business of the company or responsible for the conduct of the company's business.

4. Learned State counsel, on the other hand, has submitted that it is an established case of misbranding and the active ingredients of the product



were not in accordance with the contents as described in the label. Undoubtedly, the petitioner, who is the Director of respondent No.6-company, is over all Incharge of the company and cannot escape the liability. Learned State counsel, however, does not dispute that the Manufacturing Company is already being proceeded against through its Quality Control Manager-cum-Responsible Person, Raj Kumar Chander(respondent No.7), who is also an accused in this complaint.

5. I have carefully gone through the material available on record.

6. Before proceeding with the case in hand, it is necessary to refer to Section 33 of the Insecticides Act, 1968 (for short 'the Act'), which is reproduced hereunder:-

“Section 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 subsection 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

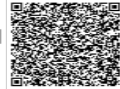
(b) “director”, in relation to a firm, means a partner in the firm.”

7. A bare reading of Section 33 of the Act reveals that every person of the company, who at the time of commission of the said offence, was incharge of, or was responsible to the company, for the conduct of its business shall be deemed to be guilty of the offence and would be liable to be proceeded against. Sub Section 2 further provides that in case the offence had been committed by the company with the consent or connivance of any Director, Manager, Secretary or any other officer of the company then 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.

8. While highlighting the importance of having specific and well-defined claims before initiating prosecution under Section 33 of the Insecticides Act, Hon'ble the Supreme Court in the case of ***Rajiv Khurana's case (supra)*** has held as under:-

“18. The ratio of all these cases is that the complainant is required to state in the complaint how a Director who is sought to be made an accused, was in charge of the business of the company or responsible for the conduct of company's business. Every Director need not be and is not in charge of the business of the company. If that is the position with regard to a Director, it is needless to emphasise that in the case of non-Director officers, there is all the more necessary to state what were his duties and responsibilities in the conduct of business of the company and how and in what manner he is responsible or liable.”

(emphasis supplied)



9. Hon'ble the Supreme Court in the case of *M/s Cheminova India Limited & Anr Vs. State of Punjab & Ors*, decided on 04.08.2021 passed in Criminal Appeal No.750 of 2021 has also held that the proceedings under the Insecticides Act cannot be instituted against all and sundry persons of the company and as per Section 33 of the Act, only responsible persons of the company can be deemed to be prosecuted and liable to be proceeded against.

The relevant extracts are stated as under:-

“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 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 SLP(Crl.) No. 4144 of 2020 and the responsible person of the Company for conduct of its business, by making bald and vague allegations, 2nd Appellant – Managing

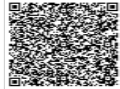


Director cannot be prosecuted on vague allegation that he being the Managing Director of the 1st Appellant – Company, is overall responsible person for the conduct of the business of the Company and of quality control, etc. In the instant case, the Company has passed a resolution, fixing responsibility 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 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.”

(emphasis supplied)

10. Admittedly, in the instant case, the petitioner is being prosecuted as Director of the Manufacturing Company. However, there are no specific averments showing how he was the incharge of the business or responsible for the Company's conduct or had any role in quality control in the manufacture of pesticides.

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11. Moreover, the complaint (Annexure P-1) clearly indicates that Ram Kumar Chander-respondent No.7 was the 'Responsible Person for Quality Control' which has not been disputed by the learned State counsel. It has also been pleaded by the learned counsel for the petitioner that Ram Kumar Chander, Manager and Country Head for Quality Control, was directly responsible for the product quality in terms of the Resolution dated 01.05.2014 of the Board of Directors i.e. Annexure P-39 and it is a matter of record that he has already been proceeded against.

12. In view of the above, the petition is allowed and the complaint dated 12.02.2018 (Annexure P-1) titled as 'State of Punjab versus M/s Mittal Pesticides and others' bearing COMA/17/2018 along with the order 22.11.2023 passed by the Additional Chief Judicial Magistrate, Sangrur declaring proclaimed person, is hereby quashed qua the petitioner only.

13. Pending application, if any, shall stand disposed of accordingly.

(H.S.GREWAL)
JUDGE

04.08.2025
A.Kaundal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No