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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14328-2023(O&M)

Date of decision: 03.05.2025

M/s Amsons Laboratories Private Ltd.

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arun Chandra, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

Harpreet Singh Brar, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of criminal complaint bearing No. COMA/2/2018 dated 01.02.2018 registered under Sections 3k(1), 17, 18, 29, 33 of the Insecticides Act, 1968 titled as '*State of Punjab vs. M/s Kissan Pesticides, Andana and others*' as well as summoning order dated 01.02.2018 (Annexure P-2) passed by learned Sub Divisional Judicial Magistrate, Moonak, and all consequential proceedings arising therefrom.

2. Briefly, the facts, as alleged, are that on 31.07.2013, the Insecticide Inspector visited the premises of M/s Kissan Pesticides, Andana, District, Sangrur and drew samples of Chloropyriphos 20% E.C. manufactured by the petitioner. Post analysis, the said chemical was found misbranded, which resulted in institution of complaint(supra).

3. Learned counsel for the petitioner *inter alia* contends that the complaint(supra) was launched without obtaining the requisite sanction, which is mandatory in nature. Moreover, the complaint has been registered against the petitioner, that is a company, without arraying any officials therein. Further, it is



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contended that the sample was drawn on 31.07.2013 while the complaint(supra) was filed on 01.02.2018. As such, the learned trial Court ought not to have taken cognizance of the same owing to the bar on the ground of limitation provided by Section 468 Cr.P.C. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in *State of Rajasthan vs. Sanjay Kumar 1998 AIR SC 1919* and this Court in *M/s Kheti Sew Centre vs. State of Punjab 2003(1) R.C.R. (Criminal) 310, Sunil Chaudhary and another vs. State of Punjab 2002(4) R.C.R. (Criminal) 715, S.C. Sharma and others vs. State of Punjab and another 1990(1) R.C.R. (Criminal) 702, K.G. Papu and another vs. State of Punjab 1996(1) R.C.R. (Criminal) 795, G.V. Devashyam vs. State of Haryana CRM-M-6321-1994 decided on 26.04.2002, K.N. Dwivedi vs. State of Punjab CRM-M-4321-2007 decided on 02.11.2007 and Sant Lal Surekha vs. State of Punjab 2009(4) R.C.R. (Criminal) 981.*

4. *Per contra*, learned State counsel submits that the sample drawn by the concerned Insecticide Inspector were analysed and the same were found to be misbranded by Insecticide Testing Laboratory, Amritsar on 12.08.2013. A reanalysis by Insecticide Testing Laboratory, Faridabad on 07.11.2014 demonstrated the same result. As such, criminal proceeding ought to continue against the petitioner, being a manufacturer. However, he could not controvert the fact that the requisite sanction was not obtained prior to launching prosecution in the present case.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the samples were drawn 31.07.2013. They were sent for chemical analysis and the first report was obtained on 12.08.2013, however, the complaint(supra) was filed on 01.02.2018, after about 4.5 years.



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6. The offence under Section 29 of the Insecticides Act lays down the offences and punishments qua the same. Since the petitioner is facing allegations of misbranding, the maximum punishment that can be awarded, as per Section 29(1) (a) of the Insecticide, Act to it, if found guilty, is 02 years, for a first time offender, and 03 years for a repeat offender. As such, according to Section 468(2)(c) Cr.P.C., the concerned Court is barred to take cognizance of the same after 03 years. Reliance in this regard can be placed on the judgment rendered by a Constitution Bench of the Hon'ble Supreme Court in *Sara Mathew vs. Institute of Cardio Vascular Disease and Others 2014(14) RCR Criminal 10*, wherein it has been categorically held that for the purpose of calculating the period of limitation under Section 468 of Cr.P.C., the relevant date would be the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance or the date of issuance of process by the Court.

7. As far as computation of the limitation period is concerned, the same shall commence from 12.08.2013, when the first report of chemical analysis, establishing misbranding, was received. A two Judge bench of the Hon'ble Supreme Court in *M/s Cheminova India Ltd. and another vs. State of Punjab and another (2021) 8 SCC 818*, speaking through Justice R. Subhash Reddy has held as follows:

“10. ...When it is clear from the language of Section [469](#), Cr.PC that the period of limitation shall commence on the date of offence, there is no reason to seek computation of limitation only from the date of receipt of report of the Central Insecticide Testing Laboratory, Faridabad. As per the procedure prescribed under the Statute, i.e., Insecticide Act, 1968 and the rules made thereunder, the Insecticide Testing Laboratory, Ludhiana was the competent authority to which the sample was sent on 17.02.2011, after drawing on 10.02.2011, and the report of analysis was received on 14.03.2011, as such the said date is said to be the crucial date for commencement of period of limitation. By virtue of the said report received on 14.03.2011 which states that the active ingredient of the sample was only to the extent 34.70% as against the labelled declaration of 40%, it is clear that it is the date of offence allegedly committed by the accused. Merely because a further request is made for sending the sample to the Central Insecticide Testing Laboratory, as contemplated under Section [24\(4\)](#) of



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*the Act, which report was received on 09.12.2011, receipt of such analysis report on 09.12.2011 cannot be the basis for commencement of limitation. **The report of analysis received from the Insecticide Testing Laboratory, Ludhiana on 14.03.2011 itself indicates misbranding, as stated in the complaint, thus, the period of limitation within the meaning of Section 469, Cr.PC commences from 14.03.2011 only.** In that view of the matter, we are clearly of the view that the complaint filed is barred by limitation and allowing the proceedings to go on, on such complaint, which is ex facie barred by limitation is nothing but amounts to abuse of process of law. Though the learned counsel has also raised other grounds in support of quashing, as we are persuaded to accept his submission that complaint filed is barred by limitation, it is not necessary to deal with such other grounds raised.”*

8. Further, a perusal of the sanction letter dated 30.10.2017 (Annexure P-5) reflects that prosecution was allowed to be initiated only against M/s Kissan Pesticides- Dealer, M/s Yashika Agrochem and M/s Alpha- Manufacturer. The name of the petitioner does not figure in the said list. In fact, it appears that a specific note has been made to the extent that the petitioner did not have the requisite licence to manufacture the said insecticide. As such, the defective sanction letter makes it evident that the prosecuting agency did not meet the prerequisites to initiate prosecution against the petitioner.

9. This Court in ***K.G. Papu and another vs. State of Punjab (supra)*** has categorically held that obtaining sanction under Section 31 of the Insecticide Act is a condition precedent to launching of prosecution and that the sanction to prosecute a partnership firm cannot be treated as sanction to prosecute its partners. In ***G.V. Devasahayam vs. State of Haryana (supra)***, this Court has held that if name of the petitioner does not figure in the sanction, prosecution cannot be initiated against him. Furthermore, the Insecticide Act is a special statute and it is trite law that if a special enactment lays down the provisions regarding procedure that must be adopted for investigation and adjudication of an offence that falls in its purview, general provisions of the IPC or the Cr.P.C. will not be attracted. Reliance in this regard can be placed on the judgment of the Hon'ble Supreme Court in ***Jeewan***



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Kumar Raut and another versus C.B.I (2009) 7 SCC 526 and this Court in *Ajay*

Kumar Sandhu vs. State of Haryana in CRM-M-29708-2014.

10. Lastly, a perusal of the summoning order dated 01.02.2018 (Annexure P-2) indicates that a cryptic order has been passed whereby the petitioner has been mechanically summoned, without any justification being provided for the same. The same is reproduced below:

“Complaint U/s 29(1) of Insecticide Act filed by concerned Insecticide Inspector. It be registered. As complaint has been filed by the public servant, recording of preliminary evidence is dispensed with. Heard, let accused be summoned for 26.02.18.”

11. Therefore, in view of the discussion above, this Court does not find any reason to allow prosecution against the petitioner to be continued. Accordingly, the present petition is allowed. Consequently, the criminal complaint bearing No. COMA/2/2018 dated 01.02.2018 registered under Sections 3k(1), 17, 18, 29, 33 of the Insecticides Act, 1968 titled as ‘*State of Punjab vs. M/s Kissan Pesticides, Andana’ and others*’ as well as summoning order dated 01.02.2018 (Annexure P-2) passed by learned Sub Divisional Judicial Magistrate, Moonak, and all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

12. Pending miscellaneous application(s), if any shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

03.05.2025

Ajay Goswami

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