CNR No: PHHC010601272022

2026:PHHC:127957



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(126) CRM-M-24615-2022 (O & M)
Reserved on: 08.09.2026
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M/s Pahwa Pesticide and Seed Store and anr. ..... Petitioner(s)

V/s

State of Punjab ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Arshit Goel, Advocate
for the petitioner(s)

Mr. Athar Ahmed, DAG, Punjab.

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JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is is for the quashing of the impugned complaint No.COMA/3765 dated 14.12.2015 under Sections 3(k)(i), 17, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971 titled as 'State versus M/s Pahwa Pesticide and Seed Store and others' (Annexure P-1), summoning order dated 14.12.2015 (Annexure P-2) and all the consequential proceedings arising therefrom.

2. The brief facts of the case are that the Insecticides Inspector, Ms. Neetu Rani, Insecticide Inspector, Block Rajpura, District Patiala alongwith Dr. Kuldeep Inder Singh Dhillon (PP, Patiala) visited the premises of M/s Pahwa Pesticide and Seed Store, Rajpura in the presence of Sh.

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Rakesh Kumar son of Sh. Bihari Lal, Proprietor and found 35 kgs. INDAN Brand Cartap Hydrochloride 4% G.R. 5 Kg. Packing bearing Batch No.S 2007, manufacturing date 06.06.2013 and expiry date 05.06.2015, manufactured and marketed by Insecticide India Limited, Sidco, Industrial Growth Centre, Samba-184121, Distt. Jammu (J & K). On the samples being sent for analysis, the insecticides were found to be mis-branded. A complaint under Sections 3(k)(i), 17, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971 dated 14.12.2015 (Annexure P-1) against the manufacturing and marketing company-M/s Insecticide India Limited and its officers as also its distributor-M/s Gurdev Trading Company Ambala and its officers as well as dealer-M/s Pahwa Pesticides and Seed Store, Rajpura and its Proprietor-Rakesh Kumar (present petitioners) came to be filed.

3. Based on the said complaint dated ,14.12.2015 (Annexure P-1), the summoning order dated 14.12.2015 (Annexure P-2) under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971 was issued against all the accused including the present petitioners.

4. The instant petition has been filed challenging the complaint dated 14.12.2015 (Annexure P-1), summoning order dated 14.12.2015 (Annexure P-2) and all consequential proceedings arising therefrom.

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5. The learned counsel for the petitioners contends that the Insecticides in question which were found to be mis-branded were manufactured and marketed by Insecticide India Limited, Sidco, Industrial Growth Centre, Samba-184121, Distt. Jammu (J & K) but distributed by M/s Gurdev Trading Company Ambala whereas M/s Pahwa Pesticides and Seed Store, Rajpura was its dealer. As the samples have been taken from a sealed cover, the petitioners cannot be liable in terms of Section 30(3) of the Insecticides Act. Reliance is placed on ***'M/s Rallis India Limited and ors. Versus State of Punjab 2022(3) RCR (Criminal) 880, M/s Mahindra Shubhlabh Services Limited and ors. Versus State of Punjab 2023(1) Law Herald 885 and M/s Syngenta India Ltd. and ors. Versus State of Punjab 2024 NCPHHC 47039'.***

6. The learned counsel for the State has not denied the factual assertion that the petitioner No.1-M/s Pahwa Pesticide and Seed Store, Rajpura is the dealership concern and petitioner No.2-Rakesh Kumar is the Proprietor of the said dealership concern whereas the manufacturing company was M/s Insecticide India Limited and the samples were taken from a sealed cover.

7. I have heard the learned counsel for the parties.

8. Section 30 of the Insecticides Act, 1968 is reproduced hereinbelow:-

> *30.* ***Defences which may or may not be allowed in prosecutions under this Act.-***

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(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- (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 tc"

(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; and

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(c) that the insecticide, while in his possession, was properly stored and remained in the same state as when he acquired it.

9. *This Court in the case of* ***'M/s Rallis India Limited and ors. Versus State of Punjab 2022(3) RCR (Criminal) 880',*** has held as under:-

22. It is evident from a perusal of the petition as well as documents appended along with the same that the undisputed case of the respondent-State is that the petitioners were a marketing agent of the insecticides. It has been repeatedly so affirmed by the respondent in various paragraphs of the complaint instituted through Insecticide Inspector and already extracted above. It is also not a subject matter of dispute that the sample was drawn from a sealed packet and it is nowhere alleged that the sample had not been stored in accordance with the provisions contained under the Insecticides Act and Rules framed thereunder. There is also no allegation that the petitioners were responsible for the quality of the product as also for ensuring the labelled ingredients of the same. The petitioners are not nominated as the authorised/responsible officers in terms of section 33 of the Insecticides Act. The statutory mandate intends to penalize a person who has committed an offence. It does not intend to prosecute the people who are merely dealing with the said product and for which they have no control as regards its quality and content. The petitioners cannot be held vicariously liable and to be penalized for misbranding of a product where they were not involved in the manufacturing process at all merely for having traded in the same. Section 3(k)(i) defines misbranding. The same relates to

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the label of products and its contents. It is not the case that any of the activities referred to under section 3 (k) attracting misbranding was undertaken by the petitioners. Further, Section 17 of the Act is also not attracted against the petitioners inasmuch as the petitioners are neither the importer of the misbranded insecticides, nor manufacturer thereof. Further, the ingredients of Section 18 of the Act are also not satisfied and there is no allegation that the petitioners had indulged in the sale of the insecticides, which was either not registered under the Act or was prohibited under Section 27. Similarly, Section 29 also would not be applicable against the petitioners inasmuch as the same contemplates punishment for offences as stated above. Once the necessary ingredients of the said Sections are not satisfied against the petitioners, they cannot be penalized for the same.

10. This Court in the case of ***'M/s Mahindra Shubhlabh Services Limited and ors. Versus State of Punjab 2023(1) Law Herald 885',*** has held as under:-

24. Further, in the present case, the sample was drawn from the original sealed package of the concerned insecticide as is evident from seizure memo comprised of Forms XX and XXI which are part of the record of the learned trial Court. There is nothing on record to show that the said sealed package/container was not properly stored by the licensed dealer or that at the time of taking of sample, the container of the insecticide was not found to be properly sealed or the seal was found to be tampered with by the Insecticide Inspector. In view of the fact that the sample was taken from a properly

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sealed container/package, the liability arising out of the misbranding cannot be that of the marketing agency or its employees, in light of the provisions of Section 30(3) of the Act. In this context, reliance can be placed on judgment of Hon'ble Supreme Court in M/s Kisan Beej Bhandar, Abohar v. Chief Agricultural Officer, Ferozepur and another (1990) SCC (Criminal) 623, wherein, it was held as under : -

> "4. The High Court took the view that by enacting sub-section (1) of Section 30 of the Act, Parliament had taken out the element of mens rea from consideration and, therefore, knowledge was not at all material. Appellant's counsel has argued that protection of sub-section (3) is available not only to prosecutions but also to every contravention of the Act and cancellation of licence for contravention of the Act and cancellation of licence for contravention of the Act is also a matter covered by sub-section (3). We are inclined to accept the submission and take the view that whether it is prosecution or contravention leading to cancellation, sub-section (3) applies. In that view of the matter, on the facts found that it was a full tin in a sealed condition, the liability arising out of misbranding was not of the appellant. Unless he had any other source of information about misbranding - and it has not been established - the appellant is entitled to the protection of (sic) appellant's contention that it was a sealed tin intact has been found, the burden that lay on him under the provisions of sub-section (3) had been satisfactorily discharged, even in the matter of considering the question of cancellation of licence and, therefore, his licence should not have been cancelled. We allow the appeal, reverse the order of the High Court and the authorities and restore the licence. The appeal is disposed of accordingly. No costs."

25. Even Coordinate Bench of this Court in M/s Rallis India Limited (supra) has held that the petitioners i.e. marketing agency/licensed dealer cannot be held vicariously liable and penalised for misbranding of a product where they were not involved in the manufacturing process at all merely for having traded in the same.

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> *26. In view of above, this Court finds that initiation and continuation of complaint (Annexure P-1) and the consequent proceedings against the petitioners are not legally justified and sustainable and the delay in filing of the complaint has resulted in misuse of the process of law. Accordingly, the present petition is allowed and complaint (Annexure P-1), order dated 29.4.2019 (Annexure P-9), summoning order dated 29.4.2019 (Annexure P-2) and the subsequent proceedings taken in pursuance thereof are quashed qua the petitioners only.*

11. This Court, in ***M/s Syngenta India Ltd. and ors. Versus State of Punjab 2024 NCPHHC 47039*** has held as under:-

> *8. Admittedly, in the instant case, the petitioners are the marketing company and its Director/responsible persons. The samples were taken from sealed packing's. Clearly, the petitioners were not responsible for manufacturing or quality control of the mis-branded insecticide for which the liability if any lay with the manufacturer. Proceedings qua the dealer and one of the Directors/responsible person of the manufacturing company already stand quashed. Therefore, the petitioners are entitled to the similar relief.*

12. Coming back to the facts of the present case, admittedly, the samples have been taken from a sealed packing. There is nothing to suggest that the samples had not been stored in accordance with the provisions of the Insecticides Act, 1968 and the Insecticides Rules, 1971, framed thereunder. The petitioner No.1 is the dealership concern and petitioner No.2 is its Proprietor. As such, they are entitled to the protection under Section 30(3) of the Insecticides Act inasmuch as they cannot be held liable for the

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contravention of any provision of the Act as they are neither the importer nor the manufacturer.

13. Keeping in view, the aforementioned discussion, I find merit in the present petition. Therefore, the complaint dated 14.12.2015 (Annexure P-1), summoning order dated 14.12.2015 (Annexure P-2) and all the consequential proceedings arising therefrom stand quashed.

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

September 10, 2026 **(JASJIT SINGH BEDI)**
sukhpreet **JUDGE**

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

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