
(2009) 07 RAJ CK 0054

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 705 of 2007

ATOZ Agricoz and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 21-07-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Insecticides Act, 1968 — Section 22(3), 22(4), 22(6), 24, 24(1)

Citation : (2009) 07 RAJ CK 0054

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

H.R. Panwar, J.—By the instant Criminal Misc. Petition u/s 482 Cr.P.C., the accused petitioner seek quashing of the proceedings in Criminal Case No. 132/2000 State v. M/s Laxmi Krishi Seva Kendra and Ors. pending in the Court of Judicial Magistrate, Bar, district Pali (for short "the trial Court" hereinafter) for the offence u/s 29(i)(a) of the Insecticides Act, 1968 (for short "the Act" hereinafter).

2. I have hared learned Counsel for the parties.

3. It is contended by learned Counsel for the petitioners that a complaint came to be filed before the trial Court for the offence u/s 29(i)(a) of the Act on the ground that the complainant inspected the shop of M/s Laxmi Krishi Seva Kendra on 28.10.1999 and took the sample of two insecticides namely SPARK and HOSTATHION. The manufacturing dates of the samples taken were December 1998 and April 1999 and expiry date of the same were November 2000 and March 2001 respectively. The sample so taken were sent for chemical analysis to the Central Insecticides Laboratory, Faridabad on 06.11.1999 which was received by the Regional Pesticides Testing Laboratory on 22.11.1999 and the sample was analyzed on 07.02.2000 as per the report issued by Regional Pesticides Testing Laboratory as available on record Section 24 of the Act deals with report of

Insecticide Analysis which reads as under:

24. Report of Insecticide Analyst.-(1) The Insecticide Analyst to whom a sample of any insecticide has been submitted for test or analysis under Sub-section (6) of Section 22, shall within a period of thirty days, deliver to the Insecticide Inspector submitting it a signed report in duplicate in the prescribed form.

(2) The Insecticide Inspector on receipt thereof shall deliver one copy of the report to the person from whom the sample was taken and shall retain the other copy for use in any prosecution in respect of the sample.

(3) Any documents purporting to be a report signed by an Insecticide Analyst shall be evidence of the facts stated therein, and such evidence shall be conclusive unless the person from whom the sample was taken has within twenty-eight days of the receipt of a copy of the report notified in writing the Insecticide Inspector or the Court before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report.

(4) Unless the sample has already been tested or analysed in the Central Insecticides Laboratory, where a person has under Sub-section (3) notified his intention of adducing evidence in controversion of the Insecticide Inspector Analyst's report may, of its own motion or in its discretion at the request either of the complainant or of the accused, cause the sample of the Insecticide produced before the Magistrate under Sub-section (6) of Section 22 to be sent for test or analysis to the said laboratory, which shall, within a period of thirty days, which shall make the test or analysis and report in writing signed by, or under the authority of, the Director of the Central Insecticide Laboratory the result thereof, and such report shall be conclusive evidence of the facts stated therein.

(5) The cost of a test or analysis made by the Central Insecticides Laboratory under Sub-section (4) shall be paid by the complainant or the accused, as the Court shall direct.

4. According to learned Counsel for the petitioner as per Section 24(1) of the Act, the Insecticide Analyst to whom a sample of any insecticide has been submitted for test or analysis under Sub-section (6) of Section 22, shall, within a period of 30 days, deliver to the Insecticide Inspector submitting it a signed report in duplicate in the prescribed form. The period of 30 days came to be substituted by Act 23 of 2000 w.e.f. 05.08.2000 and prior to that the period was 60 days. In the instant case, the occurrence is prior to 05.08.2000 and therefore, within 60 days from the date of receipt of sample, the report was to be submitted. In the instant case, the Regional Pesticides Testing Laboratory even did not analyze or test the sample received by them within 60 days. As per the report, the sample was received on 22.11.1999 and the 60 days period expires on 21.01.2000, whereas the sample received by the said laboratory was analyzed on 07.02.2000 much after expiry of 60 days and therefore, the proceeding is bad in law.

5. Indisputably, the report of the Regional Pesticides Testing Laboratory dt. 07.02.2000 is on record and from the report it is clear that the sample so taken from M/s Laxmi Krishi Seva Kendra on 28.10.1999 was sent for chemical analysis and was received by the said Laboratory on 22.11.1999 and was analyzed on 07.02.2000 much after expiry of 60 days and therefore, in my view, the analysis of the sample after expiry of period and the report thereof cannot be used as evidence against the petitioners. In this view of the matter, the petition deserves to be allowed.

6. Consequently, the criminal misc. petition is allowed. The proceeding qua the petitioner in Criminal Case No. 132/2000 pending in the Court of Judicial Magistrate, Bar, District Pali is hereby quashed.