
(2026) 01 P&H CK 1765

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 6231 Of 2020

M/S Suminova Agri Science And Others

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 02-01-2026

Acts Referred:

Insecticides Rules, 1971 — Rule 27(5)

Code Of Criminal Procedure, 1973 — Section 482

Insecticides Act, 1968 — Section 3(k)(i), 17, 18, 22, 22(6), 29, 33

Citation : (2026) 01 P&H CK 1765

Hon'ble Judges : Yashvir Singh Rathor, J

Bench : Single Bench

Advocate : Rakesh Verma, Manish Verma, Rohit Hans, Ram Singh Paul

Final Decision : Dismissed

Judgement

Yashvir Singh Rathor, J

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 173, prayer has been made to quash complaint case No.33 dated 26.07.2019 titled as "State vs M/s Quality Mill Store and others" under Sections 3(k)(i), 17, 18, 29, 33 of the Insecticides Act, 1968 (hereinafter referred to as 'Act') read with Rule 27 (5) of Insecticides Rules, 1971 pending in the Court of learned Sub Judicial Magistrate, Khanna. District Ludhiana (Annexure P-1), apart from the summoning order dated 27.06.2019 (Annexure P-2) and all the consequential proceedings arising therefrom qua the petitioners.

2. Brief facts of the prosecution case are that on 22.05.2017, Insecticide Inspector, Khanna, District Ludhiana, visited the shop/premises of one dealer-firm namely M/s Quality Mill Store, Samrala Road, Khanna, District Ludhiana and after making necessary statutory compliances, he drew sample of Insecticide namely, Fipronil 0.3% GR manufactured by M/s Vikas Organic Ind. Corporation, Faridkot; and marketed by M/s Suminova Agri Science, Kotkapura. Out of three samples collected by the Insecticide Inspector, one sample was sent to the State

Insecticide Testing Laboratory, Bhatinda on 26.05.2017, i.e. after 4 days for analysis. The report of the Public Analyst, Bhatinda was received on 19.06.2017 in the office of Chief Agriculture Officer, Ludhiana according to which sample was declared 'misbranded'. Against the show cause notice sent to the accused i.e. the dealer, supplier and the manufacturing company, replies were filed by them. Request was made by the dealer to send the second part of the sample to the Central Insecticide Laboratory, Faridabad for reanalysis so as to controvert the report of Public Analyst. The sample was sent to the Central Insecticide Laboratory, Faridabad on 12.02.2018, where the analysis was done on 05.03.2018 vide report Annexure R-21, declaring the sample as 'misbranded'. After obtaining necessary sanction from the competent authority, the prosecution was launched in the Court of learned Sub Divisional Judicial Magistrate, Khanna, District Ludhiana on 26.07.2019.

3. On the same day i.e. 26.07.2019, learned Sub Divisional Judicial Magistrate, Khanna, District Ludhiana ordered issuance of summons to all the accused vide order Annexure P-2.

4. Learned counsel for petitioners contended that petitioners No.2 to 4 are the office bearers of the firm i.e. petitioner No.1, which is a distributor/marketing firm only. The petitioners have no role whatsoever in the manufacturing or packaging or labeling of the products which have been manufactured by the registered and authorised manufacturing company namely M/s Vikas Organic Ind. Corporation, Faridkot. The petitioner-firm supplied material in the "Original Sealed Packing" as was received from the manufacturing company and the marketing company/ petitioners thus cannot be held liable for the misbranding of the products in any manner whatsoever. The sample was drawn from the original sealed packing and no offence is made out against the petitioners. Learned counsel next contended that the sample was drawn on 22.05.2017 but the same has been sent to the Office of Public Analyst on 26.05.2017, after a delay of four days which is in gross violation of the mandatory provisions of Section 22(6) of the Act. Learned counsel lastly contended that the order passed by the trial Court is non-speaking and is a result of non-application of mind and no reasons have been recorded by the trial Magistrate while summoning the petitioners to face the trial as an accused and the impugned summoning order is also thus liable to be set aside. In support of his contentions, learned counsel has cited Law Finder Doc Id # 1990978 - M/s Rallis India Limited and others Vs. State of Punjab, decided on 20.04.2022, judgment dated 15.01.2024 passed in CRM-M-37453-2019 – Raman Deep Singh and Another Vs. State of Punjab, judgment dated 17.02.2025 passed in CRM-M-23159 of 2023 – Uday Raj Anand and another Vs. State of Punjab and judgment passed in CRM-M-12926 of 2018 – Sohan Singh Vs. State of Punjab, decided on 16.01.2023.

5. On the other hand, learned State Counsel has argued that the petitioner No.1 being the marketing company/ distributor and petitioners No.2 to 4 (office bearers) are liable for sale of misbranded articles and petitioners cannot be

absolved only on the ground that petitioner No.1 is not the manufacturer of the said insecticide. Learned State Counsel further argued that the sample was drawn on 22.05.2017 and same was deposited in the Office of Chief Agricultural Officer, Ludhiana on 23.05.2017 and after completing necessary formalities, the sealed sample was sent and deposited at Insecticide Testing Laboratory, Bathinda on 26.05.2017 in a sealed condition and mere delay of four days is not sufficient to come to the conclusion that provisions of Section 22(6) of the Act have been violated. Thereafter, the sample has also been tested at Central Insecticide Laboratory, Faridabad which also found the sample to be misbranded and therefore, mere delay in sending the sample to State Insecticide Laboratory cannot be a ground to quash the complaint and learned State Counsel prayed that the petition in hand be dismissed.

6. I have heard the contentions raised by learned counsel for the parties and have also perused the record carefully.

7. The core issue before the Court is whether a retailer or marketing company, such as the petitioners, can be held liable under the Act for sale of an insecticide which is later on found to be misbranded, despite the fact that the sample was drawn from a sealed container. The answer is certainly in the negative. Hon'ble the Supreme Court in 1990(Supp) SCC 11 – M/s Kisan Beej Bhandar, Abohar Vs. Chief Agricultural Officer, Ferozepur, has held that if an insecticide is received and sold in a sealed condition, the liability for misbranding cannot be fastened upon the dealer in the absence of evidence indicating knowledge of misbranding. A similar issue arose before a co-ordinate Bench of this Court in M/s Rallis India Limited and others Vs. State of Punjab case (supra), in which the sample was drawn from the marketing company from a sealed container which was found to be misbranded. It was held that there was no allegation that the petitioners were responsible for quality of the product as also for ensuring labelled ingredients of the same and petitioners are not nominated as authorised/ responsible officers in terms of Section 33 of the Insecticides Act and it does not intend to prosecute people who are merely dealing with product and for which they have no control as regards its quality and contents. It was further held that the marketing company cannot be held vicariously liable and penalized for misbranding of product where they were not involved in manufacturing process at all merely for having traded in the same and the complaint was ordered to be quashed. Similar view has been taken by a co-ordinate Bench of this Court in Raman Deep Singh and Another Vs. State of Punjab case (supra). In the present case also, the sample was drawn from a sealed container and petitioners were only dealing in the marketing of the product and as such, they cannot be considered as authorised responsible officers in terms of Section 33 of the Insecticides Act and cannot be vicariously held liable and penalized for sale of misbranded product and it is only the manufacturer who is liable for the same. On this score only, the complaint in question is liable to be quashed.

8. Section 22 of the Insecticides Act, 1968 provides the procedure to be followed

by the Insecticide Inspectors. The relevant portion of the said Section reads as under:-

"22. Procedure to be followed by Insecticide Inspectors.-

(1) xxxx

(2) xxxx

(3) xxxx

(4) xxxx

(5) xxxx

(6) The Insecticide Inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person from whom he takes it and shall retain the remainder and dispose of the same as follows:-

(i) one portion or container, he shall forthwith sent to the nsecticide Analyst for test or analysis; and

(ii) the second, he shall produce the Court before which proceedings, if any, are instituted in respect of the insecticide."

9. It is evident from the aforesaid provision that one portion of the sample so divided by the Insecticide Inspector is required to be sent 'forthwith' to the Insecticide Analyst for test or analysis.

10. However, in the present case, second sample was also sent to the Central Insecticide Laboratory on the request of the dealer which too has been found to be misbranded and in these circumstances, the petitioners cannot derive any benefit from the fact that first sample was sent after a delay of four days to the State Insecticide Laboratory as the report of the State Laboratory pales into insignificance after the report of the Central Insecticide Laboratory is received.

11. Apart from above, order dated 26.07.2019 (Annexure P-2), vide which the Court of learned Sub Divisional Judicial Magistrate, Khanna ordered issuing the summons to the accused reads as under:-

"Present: Complainant in person.

Complaint u/s 3k(1), 17, 18, 29 & 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971 presented today. The pesent complaint has been filed by a public servant in official capacity. As such, recording of preliminary evidence is dispensed with. It be registered. Let notice to accused persons be issued for 21.09.2019.

26.07.2019

Sd/-

SDJM, Khanna"

12. The afore-said order vide which the petitioners have been summoned to face

the trial clearly shows that no reasons have been recorded by the learned trial Magistrate while issuing process against the accused. No doubt, a detailed inquiry is not required to be conducted at the stage of summoning but the order of Magistrate must reflect application of mind to find out whether a prima-facie case for proceeding against the accused is made out or not. As already discussed in the preceding paragraphs, petitioners being the marketing company are not liable to be summoned for sale of misbranded article when sample is drawn from a sealed container, but the learned trial Magistrate did not go into this question before issuing the process against them and has passed the impugned order in a casual and mechanical manner without application of any mind to the facts of the case and material on file. In 2006(3) R.C.R. (Criminal) 894 -"Sanjiv Kumar Sharma vs State of Punjab, it has been held that the Magistrate has to record reasons before summoning the accused to face the trial and Court is not absolved of its statutory obligation to pass a reasoned judicial order, while summoning an accused. As such, the impugned order being non-speaking and having been passed in a casual and mechanical manner is liable to be set aside.

13. For the reasons as discussed above, the petition in hand is accepted and the complaint (Annexure P1), impugned summoning order (Annexure P2) and subsequent proceedings are hereby quashed.