IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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2026:PHHC:194450

1. CRM-M-34503-2016 (O&M)

Syed Mohammad Altaf **...Petitioner**

Versus

State of Punjab **...Respondent**

2. CRM-M-10201-2020 (O&M)

Lakhvir Singh and others **...Petitioners**

Versus

State of Punjab **...Respondent**

Date of decision : 03.11.2026

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Pritpal Singh Miglani, Advocate
for the petitioners in ***CRM-M-10201-2020***.

Mr. Akashdeep Singh, Advocate
for the petitioner in ***CRM-M-34503-2016***.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J.*(Oral)*

1. This order shall dispose of abovementioned two petitions, which have been filed under Section 482 of the Code of Criminal Procedure, 1973 *(for short 'Cr.P.C.')* for quashing of Complaint No.COMA/9022/2014 dated 19.12.2014 titled as ***'State through Nirmal Singh, Insecticides Inspector, Ludhiana v. M/s Jandiali Trading Co. and others'*** instituted under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 *(for short 'the Act')* read with Rule 27(5) of the Insecticides Rules, 1971, pending in the Court of

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learned Chief Judicial Magistrate, Ludhiana (Annexure P-1 in both the petitions), the summoning orders dated 19.12.2014 and 06.05.2015 (Annexures P-2) and all the consequential proceedings arising therefrom qua the petitioners.

2. Both the petitions arise out of the same complaint and are, therefore, being disposed of by this common order.

3. As per the complaint, Nirmal Singh, Agricultural Development Officer-cum-Notified Insecticides Inspector, Ludhiana, visited the shop of M/s Jandiali Trading Co., Grain Market, Sahnewal on 20.07.2012. Petitioner Lakhvir Singh is the proprietor of this dealer firm and both are petitioners No.1 and 2 in CRM-M-10201-2020, respectively. The Inspector found 140 sealed packets of 5 kgs each of Cartap Hydrochloride 4% G (Cartex 4G), batch No.F/C.TX-054. The insecticide had been manufactured on 12.04.2012 by M/s FIL Industries Limited, Jammu and its date of expiry was 11.04.2014. The Inspector selected one ***sealed packet***, opened it and prepared three sample portions of 250 grams each. One portion was sent to the Senior Analyst, Insecticides Testing Laboratory, Bathinda on 23.07.2012. As per report dated 21.08.2012, the sample contained 3.57% active ingredient against the declared 4% and was found to be misbranded. On the request of the dealer and the manufacturer, the second portion was sent to the Central Insecticides Laboratory, Faridabad. Vide report dated 26.09.2012, this laboratory found the active ingredient to be 2.85% and also declared the sample to be misbranded.

4. Show cause notices were issued to the dealer firm and to the manufacturing company. The dealer firm claimed the protection of Section

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30(3) of the Act in its replies. The licence of the dealer firm was cancelled by the Chief Agricultural Officer, Ludhiana on 30.11.2012, but the said order was stayed in appeal on 21.01.2013. Written consent under Section 31(1) of the Act was granted by the Joint Director of Agriculture (Plant Protection), Punjab on 07.08.2014. The complaint was then filed against the dealer firm (accused No.1), Lakhvir Singh (accused No.2) and M/s FIL Industries Limited (accused No.3). The officials of the company were also arrayed as accused No.4(a) to 4(d) in their individual capacity. They are Syed Mohammad, Managing Director (accused No.4(a)), Mohammad Ashraf Rather, responsible officer for quality control (accused No.4(b)), Prince Gumber, Regional Sales Manager (accused No.4(c)) and Manveer Singh, godown incharge (accused No.4(d)). Learned Chief Judicial Magistrate, Ludhiana summoned the accused vide order dated 19.12.2014 and accused No.3 and 4 were directed to be summoned vide order dated 06.05.2015. Syed Mohammad Altaf has filed petition bearing ***CRM-M-34503-2016***, while the dealer firm, its proprietor and Prince Gumber have filed petition bearing ***CRM-M-10201-2020***.

5. Learned counsel for the petitioner in ***CRM-M-34503-2016*** has argued that the petitioner was the Managing Director of M/s FIL Industries Limited but he was never the person responsible for quality control or for the conduct of its business at Ludhiana. The company had nominated Mohammad Ashraf Rather for quality control, Prince Gumber for the conduct of business and Manveer Singh as godown incharge. Their affidavits had been submitted to the licensing authority and have been annexed by the complainant himself with the complaint as Annexures R-28 to R-30. All

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these persons have also been arrayed as accused. The complaint contains only a bald statement against the petitioner on account of his designation, which does not satisfy the requirement of Section 33 of the Act. The petitioner had also resigned from the company, vide letter dated 24.12.2014, which was accepted with effect from 30.01.2015 (Annexure P-3). His prosecution is, thus, an abuse of the process of law. To buttress his arguments, learned counsel has relied upon the authorities cited as ***M/s Cheminova India Limited and another v. State of Punjab and others, (2021) 8 SCC 818***, ***Rajnish Sarna v. State of Punjab, CRM-M-15356-2021*** decided on 06.10.2023, ***Sunil Sethy v. State of Punjab, CRM-M-62101-2018*** decided on 21.12.2023, ***Rajesh Aggarwal and another v. State of Punjab, CRM-M-5137-2022*** decided on 30.07.2024, ***S.B.V.R. Prasad v. State of Punjab, CRM-M-37187-2021*** decided on 30.07.2024, ***Prayut Jamsaria v. State of Punjab, CRM-M-21392-2023*** decided on 11.11.2024 and ***Raj Deep Bhatia v. State of Punjab, CRM-M-22204-2023*** decided on 12.11.2024 by this Court.

6. Learned counsel for the petitioners in ***CRM-M-10201-2020*** has argued that petitioners No.1 and 2 are only retailers. The insecticide was purchased by them from the godown of the manufacturer in sealed packets and the sample was drawn from the original sealed packing. There is no allegation of any tampering or of improper storage against them. They are, thus, protected by Section 30(3) of the Act. Petitioner No.3 was the Regional Sales Manager of the manufacturing company and had left the job in March, 2012. The licensing authority had allowed Rajinder Singh Bali to be the new responsible person for conduct of business in his place with effect from 12.04.2012 (Annexure P-5). The show cause notice was also not issued to

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him (Annexure P-6). The further argument is that the Inspector should have taken three sealed containers instead of opening one packet and the sample was not sent to the laboratory forthwith. The summoning order is also stated to be a non-speaking order. To buttress his arguments, learned counsel has relied upon the authorities cited as ***Jindal Fertilizers and Chemicals and others v. State of Punjab, 2010(4) R.C.R. (Criminal) 146*** and ***Amarjit Singh and others v. State of Punjab, CRM-M-2441-2017*** decided on 01.03.2023 by this Court.

7. Replies have been filed by the respondent-State. Learned State counsel has opposed both the petitions. It is argued that the sample was found misbranded in both the tests. Under Section 29(1)(a) of the Act, whoever sells, stocks or exhibits for sale a misbranded insecticide is liable to be punished, and the dealer firm and its proprietor had sold this insecticide to the farmers. The protection under Section 30(3) of the Act has to be proved by them during the trial. Prince Gumber had furnished an affidavit dated 24.01.2012 (Annexure R-4) undertaking the responsibility for conduct of business, and he cannot shift his liability to Rajinder Singh Bali. A packet of 5 kgs cannot be termed a container of small volume. The sample was drawn in the presence of petitioner Lakhvir Singh, who never objected to the procedure and rather sought re-analysis of the sample. The sample was sent to the laboratory on 23.07.2012 and there was no delay. As regards the Managing Director, it is argued that he was in overall charge of the company and his plea is a matter of evidence. The petitioners have the remedy of revision against the summoning order. With these submissions, learned State counsel has prayed for dismissal of the petitions.

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8. This Court has heard the rival submissions and has gone through the record carefully.

9. Before proceeding further, it would be appropriate to reproduce Sections 30(3) and 33(1) of the Act, which read as under:-

> **"30. Defences which may or may not be allowed in prosecutions under this Act**.—
>
> xxx xxx xxx
>
> (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**
>
> (c) **that the insecticide, while in his possession, was properly stored and remained in the same state as when he acquired it.**
>
> ***
>
> 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."

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10. The objections relating to the drawing and sending of the sample may be dealt with first, since they relate to the sample itself and would affect all the accused. Under the proviso to Section 22(5) of the Act, the Inspector may take three containers instead of dividing the sample only where the insecticide is made up in containers of small volume. He is bound to do so only where the insecticide is likely to deteriorate or be damaged by exposure. A packet of 5 kgs is not a container of small volume. It is also not the case of the petitioners that these granules were likely to deteriorate on exposure. As per the complaint, the three portions were put in polythene envelopes, made airtight and sealed in cloth bags. A similar objection under the food law was rejected by the Hon'ble Supreme Court in ***State of Punjab v. Devinder Kumar and others, [1983] 2 S.C.R. 714***. It was held that there is no legal requirement compelling the Inspector to send a sealed container as such, where it contains a quantity much larger than what is required for the sample. This objection, therefore, has no merit.

11. Section 22(6)(i) of the Act requires the Inspector to send one portion of the sample forthwith to the Insecticide Analyst. In ***Sohan Singh v. State of Punjab, CRM-M-12926-2018*** decided on 16.01.2023, this Court held the word 'forthwith' to mean the date of sampling, the next day or, at the most, the next working day if the next day is a holiday. In the present case, the sample was drawn on 20.07.2012, which was a Friday. It was sent to the laboratory on 23.07.2012, which was a Monday and the next working day. The requirement of Section 22(6)(i) of the Act was, thus, complied with. The cases in which complaints have been quashed on this ground involved unexplained delay of several days, and they do not apply to the present case.

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The date of deposit mentioned in paragraph 6 of the complaint as 23.03.2012 is evidently a typographical error, since the forwarding letter itself is dated 23.07.2012.

12. The objection to the summoning order also does not survive. The complaint has been filed by a public servant in the discharge of his official duty and is supported by the reports of the two laboratories. In ***Cheminova***'s case (supra), the Hon'ble Supreme Court held it to be always open for the Magistrate to issue process on such a complaint. The availability of the remedy of revision is also no bar to the exercise of jurisdiction under Section 482 Cr.P.C., where the continuation of the proceedings would amount to an abuse of the process of law. It may also be noticed that the first report was received in the office of the Chief Agricultural Officer on 27.08.2012 and the complaint was filed within three years thereof. No question of limitation, therefore, arises.

Case of Syed Mohammad Altaf (CRM-M-34503-2016)

13. Section 33(1) of the Act makes the company and every person who, at the time of the offence, was in charge of and responsible to the company for the conduct of its business liable for an offence committed by the company. The scope of this provision in the context of a Managing Director was considered by the Hon'ble Supreme Court in ***Cheminova***'s case (supra). In that case, the company had nominated its manager as the person in charge of and responsible for maintaining the quality of its pesticides and the undertaking to this effect had been filed with the department. It was held that the Managing Director could not be prosecuted merely on the vague allegation of being in overall charge of the company, when the nominated

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persons were already arrayed as accused. The relevant observations are as under:-

> "9. ... In view of the specific provision in the Act dealing with the offences by companies, which fixes the responsibility 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. ... **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.** ...
>
> xxx xxx xxx
>
> 11. **As all other nominated / responsible persons of the Company are already accused in the Complaint, we are of the view that there is no basis to proceed against the 2nd Appellant – Managing Director to prosecute him for the alleged offences.** ..."

14. The same view has been followed by Coordinate Benches of this Court in ***Rajesh Aggarwal***'s case (supra), ***S.B.V.R. Prasad***'s case (supra), ***Prayut Jamsaria***'s case (supra) and ***Raj Deep Bhatia***'s case (supra). In these cases, the complaints were quashed qua the Managing Director or Directors,

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where the quality control manager of the company had already been arrayed as an accused and no specific role had been attributed to them.

15. In the present case, the list of responsible persons of M/s FIL Industries Limited maintained by the licensing authority (Statement No.1, annexed with the complaint as Annexure R-26/1) names Dr. Mohammad Ashraf Rather as responsible for quality control. Against the name of the petitioner, only his designation as Managing Director has been mentioned and no responsibility has been assigned. The affidavits of Mohammad Ashraf Rather, Prince Gumber and Manveer Singh accepting responsibility for quality control, conduct of business and the godown respectively have also been annexed with the complaint. The person responsible for quality control and the godown incharge have been arrayed as accused and are facing trial. The orders of the trial Court dated 18.09.2019 and 04.02.2020 (Annexures P-3 and P-4 in CRM-M-10201-2020) show that the company is also being represented there through its representative.

16. The only allegation against the petitioner is in paragraph 15 of the complaint, wherein it is stated that he and Mohammad Ashraf Rather failed to check this misbranded insecticide at the manufacturing unit. It is further stated that the officials responsible at the time of failure of the sample 'might had shown negligence' in performing their duty. This is a bald statement based on the designation of the petitioner. It does not show how he was in charge of the manufacture or quality control of this batch. The allegation of possible negligence is a mere surmise and does not satisfy the requirement of Section 33(2) of the Act either, which requires consent, connivance or neglect on the part of the officer to be attributed to him. The

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case of the petitioner is, thus, squarely covered by ***Cheminova***'s case (supra). The fact that Rajinder Singh Bali, who was the responsible person for conduct of business at the relevant time, has not been arrayed as an accused cannot be a ground to proceed against the Managing Director on the basis of his designation alone.

17. Learned State counsel has also relied upon the affidavit of the petitioner (Annexure R-27). In this affidavit, the petitioner had undertaken to nominate an alternate person in case any of the three nominated persons left the firm. It is further stated that he would take responsibility in case the authorised nominated person did not appear. This undertaking only deals with a future contingency of a nominated person leaving the company without a substitute being named. The complaint does not plead that any such contingency had arisen at the time of the offence. Rather, the person responsible for quality control was in place and has been arrayed as an accused. An undertaking given to the licensing authority also cannot enlarge the scope of Section 33 of the Act, which looks to the person who was in charge at the time the offence was committed. In ***Cheminova***'s case (supra) also, the undertaking had been furnished by the Managing Director himself. This affidavit, therefore, does not furnish a ground to prosecute the petitioner.

18. As regards the resignation of the petitioner, his liability under Section 33 of the Act would have to be judged with reference to the date of the offence. His subsequent resignation on 24.12.2014 would, therefore, not by itself absolve him. The petitioner, however, succeeds for the reasons recorded above. His continued prosecution would amount to an abuse of the process of law.

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Case of the dealer firm and its proprietor (CRM-M-10201-2020)

19. Section 30(3) of the Act protects a person who is neither the importer nor the manufacturer of an insecticide nor his agent for its distribution, if the three conditions laid down therein are fulfilled. The burden to prove these conditions is no doubt on the dealer. However, in the present case, each of these conditions is established from the complaint and the documents annexed with it by the complainant himself.

20. As regards the first condition, the complaint itself states that the insecticide was supplied by the manufacturing company to the dealer firm from its own godown at Ludhiana. The challan No.55 dated 26.05.2012 of the company (Annexure R-25 with the complaint) and the principal certificate issued by it (Annexure R-24 with the complaint) have been placed on record by the complainant. As regards the second condition, the complaint states that the sample was drawn after opening one sealed packet of 5 kgs out of 140 such packets. The State has admitted in its reply also that the sample was drawn by opening a sealed packet. A retailer selling the insecticide in the sealed packing of the manufacturer had no means of ascertaining its active ingredient. As regards the third condition, there is no allegation in the complaint or in the reply that the seal was tampered with or that the insecticide was not properly stored by the dealer. The sample was drawn about three months after its manufacture and well within its shelf life. The only observation on storage is in the order cancelling the licence of the dealer firm, where the Chief Agricultural Officer stated that it 'may be possible' that the insecticide was not properly stored. This is a mere conjecture. Besides,

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that order was stayed in appeal on 21.01.2013 and the complainant has not relied upon it to allege improper storage.

21. The Hon'ble Supreme Court in ***M/s Kisan Beej Bhandar, Abohar v. Chief Agricultural Officer, Ferozepur and another, 1990 (Supp) SCC 11*** held that once it is found that the insecticide was sold in a full and sealed tin, the burden lying on the dealer under Section 30(3) of the Act stands discharged. The relevant observations are as under:-

> "4. ... 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 sub-section (3). **In the facts once the 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 ..."

22. Following this judgment, Coordinate Benches of this Court have quashed complaints against dealers in ***Jindal Fertilizers and Chemicals***'s case (supra), ***Amarjit Singh***'s case (supra), ***S.B.V.R. Prasad***'s case (supra) and ***Bhagwan Dass and others v. State of Punjab, CRM-M-22175-2019*** decided on 27.05.2024, where the sample had been drawn from the original sealed packing and there was no allegation of tampering or improper storage. The case of petitioners No.1 and 2 stands on the same footing.

23. The argument of learned State counsel that the defence under Section 30(3) of the Act can be considered only at the trial cannot be

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accepted in the facts of this case. The conditions of this provision are not in dispute and they emerge from the documents of the prosecution itself. No evidence that the complainant may lead at the trial can alter these facts. The judgment in ***Devinder Kumar***'s case (supra) cautions against quashing a prosecution where the guilt or innocence of the accused depends upon evidence yet to be led. The present is not such a case, since the relief to petitioners No.1 and 2 rests on undisputed facts and not on any appreciation of evidence. Their trial would, therefore, be a futile exercise.

Case of Prince Gumber (CRM-M-10201-2020)

24. Petitioner No.3 has been arrayed as an accused on the basis of his affidavit dated 24.01.2012 as the Regional Sales Manager responsible for conduct of business of the company. However, the same Statement No.1 of the licensing authority, annexed with the complaint as Annexure R-26/1 and with the petition as Annexure P-5, records an endorsement dated 21.04.2012. By this endorsement, Rajinder Singh Bali, Regional Sales Manager, was allowed to be the new responsible person for conduct of business in place of Prince Gumber with effect from 12.04.2012. The insecticide in question was manufactured on 12.04.2012, supplied to the dealer on 26.05.2012 and sampled on 20.07.2012. Under Section 33(1) of the Act, the relevant time is the time when the offence was committed and on that date petitioner No.3 was no longer the responsible person. The show cause notice dated 01.11.2012 was also addressed to Rajinder Singh Bali and it was he who replied to it (Annexure R-18 with the complaint in CRM-M-34503-2016). The State in its reply does not dispute this substitution. It only states that

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petitioner No.3 cannot shift his liability to Rajinder Singh Bali, which is no answer to the record of the licensing authority itself.

25. It is, therefore, not necessary to go into the disputed plea of petitioner No.3 that he had left the company in March, 2012. Even otherwise, he was a sales official and is not alleged to have any role in the manufacture or quality control of the insecticide, which reached the dealer in a sealed packing. A similar view was taken in ***Sunil Sethy***'s case (supra), where proceedings against the Managing Director of a marketing firm were quashed in respect of a product drawn from sealed packing manufactured by another company. Petitioner No.3 is, thus, also entitled to the relief prayed for.

26. To sum up, the objections regarding the manner of sampling, the alleged delay in sending the sample, the summoning order and limitation are rejected. The petitioners, however, succeed for the reasons recorded above and the continuation of the proceedings against them would amount to an abuse of the process of law.

27. In view of the discussion made above, both the petitions are allowed. Complaint No.COMA/9022/2014 dated 19.12.2014 titled ***'State through Nirmal Singh, Insecticides Inspector, Ludhiana v. M/s Jandiali Trading Co. and others'***, pending in the Court of learned Chief Judicial Magistrate, Ludhiana, the summoning orders dated 19.12.2014 and 06.05.2015 and all the consequential proceedings arising therefrom are hereby quashed qua the petitioners, namely, Syed Mohammad Altaf, Lakhvir Singh, M/s Jandiali Trading Company and Prince Gumber. The proceedings against the remaining accused shall continue in accordance with law.

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28. Nothing observed herein shall be construed as an expression of opinion on the merits of the case against them.

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

30. A photocopy of this order be placed on the file of the connected case.

03.11.2026 **(MANISHA BATRA)**
Waseem R. Ansari **JUDGE**

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

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