IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

—

CNR No: PHHC010478002022
2026:PHHC:123039

CRM-M-19562-2022 (O&M)
Date of decision : 07.09.2026

Ram Avtar Garg and another **...Petitioners**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rakesh Verma, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. *(Oral)*

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of impugned Complaint bearing No.54 dated 02.09.2020 (Annexure P-1), titled ***State v. M/s Khushal Agro Chemicals and others***, filed 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 before the Court of learned Judicial Magistrate First Class, Malerkotla, along with the summoning order dated 02.09.2020 (Annexure P-2) and all consequential proceedings qua the petitioners.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the impugned complaint was filed on the allegations that on 13.06.2019, the complainant, who is a notified Insecticide Inspector, visited the premises of M/s Khushal Agro Chemicals, Eid Gah Road,

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Malerkotla, District Sangrur. During inspection, 350 kgs. of insecticide Cartap Hydrochloride 4 GR Modan, Batch No. MCPCH1815, manufactured by M/s Modesto Crop Protection Pvt. Ltd., Karnal, was found in stock. A sample was drawn from one sealed packet in the presence of the proprietor of the dealer firm and a witness. Three test portions were prepared at the spot in accordance with the prescribed procedure and were duly sealed. One portion was handed over to the dealer, while the remaining portions were retained in safe custody. As per the further allegations, one of the retained samples was sent to the Insecticide Testing Laboratory, Amritsar, where the active ingredient was found to be 2.93% instead of the prescribed percentage i.e. 4%, vide report dated 20.06.2019. Hence, the sample was declared misbranded. On the request of the dealer, the reference sample was thereafter sent for re-testing to the Central Insecticides Laboratory, Faridabad. The re-analysis report also found the sample to be not conforming to the prescribed specifications and declared it misbranded. The Central Laboratory found the active ingredient to be 2.64%. Thereafter, show cause notices were issued to the dealer as well as the manufacturing company and its responsible officials. The manufacturing company and its officials submitted their replies. The competent authority thereafter granted written consent/sanction under Section 31(1) of the Act for launching prosecution. The complaint was accordingly filed against the dealer, the manufacturing company and its concerned officials, including the present petitioners. In the complaint, petitioner No.1-Ram Avtar Garg has been described as the Director and responsible person of M/s Modesto Crop Protection Pvt. Ltd. It has further been stated that he had furnished an

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affidavit before the licensing authority for the purposes of Section 33 of the Act and that he had failed to discharge his duties in relation to checking the distribution of the insecticide in question. Petitioner No.2-Lovish Kansal has been described as the Godown Incharge at the Zirakpur Depot of the company. It has also been stated that he had furnished an affidavit under Section 33 of the Act and had failed to discharge his duties in relation to checking the distribution of the misbranded insecticide.

3. It is argued by learned counsel for the petitioners that the impugned complaint as well as the summoning order are not sustainable in the eyes of law. The summoning order is totally a non-speaking order. It is submitted that petitioner No.1 is merely a Director and petitioner No.2 was working as Godown Incharge of the manufacturing company and neither of them was responsible for quality control of the insecticides. It is further argued that the company had already nominated Surinder Singh, its Manager/Quality Control Officer, as the responsible person under Section 33 of the Act and he had also been arrayed as an accused in the complaint. Once a responsible person had been nominated, the petitioners, who were not concerned with quality control, could not be prosecuted for the same alleged offence.

4. Learned counsel for the petitioners has further argued that the material allegedly supplied by the petitioners' company was of Batch No. MCPCH1816, whereas the sample drawn by the Insecticide Inspector was of Batch No. MCPCH1815. It was argued that the invoice relied upon by the prosecution did not establish supply of the sampled batch by the petitioners' company and, therefore, the sampled material could not be

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linked with the company. It is further argued that the dealer from whose premises the sample was drawn did not have the requisite endorsement in his licence to stock or sell the products of the petitioners' company and, therefore, the sampled material itself could not legally be linked with the company. It is also submitted that petitioner No.2 had already left the services of the company in April, 2019 and the necessary change had been endorsed in the licence of the company on 15.04.2019, whereas the sample in question was drawn on 13.06.2019. It was, therefore, argued that petitioner No.2 could not have been made liable for the alleged offence. It is further argued that the complaint does not contain the necessary averments to attract Section 33 of the Act against the petitioners. Learned counsel has referred to the provisions of Section 33 and argued that mere designation as a Director or Godown Incharge is not sufficient to fasten criminal liability upon an officer of a company. The purpose of nomination of a responsible person under Section 33 of the Act would be defeated if every office bearer of the company is prosecuted along with such nominated person. Learned counsel has lastly argued that the petitioners are residents outside the territorial jurisdiction of the learned Magistrate and, therefore, the learned Magistrate was required to follow the mandatory procedure prescribed under Section 202 Cr.P.C. before issuing process against them. It is submitted that no inquiry or investigation under Section 202 Cr.P.C. was conducted. Learned counsel has also argued that the summoning order is a non-speaking order and does not reflect any application of mind to the material on record. On these grounds, learned counsel has prayed that the complaint,

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summoning order and all consequential proceedings qua the petitioners be quashed.

5. Reply has been filed on behalf of the respondent-State. On the strength of the same, learned State counsel has opposed the petition and has argued that the complaint contains specific allegations against the petitioners and their respective roles have been clearly mentioned. It is argued that the petitioners cannot seek quashing merely on the ground that another officer, namely Surinder Singh, had also been nominated as the responsible person under Section 33 of the Act. The complaint specifically states that petitioner No.1 was the Director and responsible person of the company and that petitioner No.2 was the Godown Incharge. Their affidavits submitted under Section 33 of the Act have also been placed on record. Learned State counsel has further argued that the plea regarding the batch number is factually incorrect. The actual batch number was MCPCH1815 and the petitioners themselves, in their reply to the show cause notice, had referred to the same batch number. The invoice produced by the State also mentions Batch No. MCPCH1815. It is argued that the insecticide manufactured, marketed and supplied by the petitioners' company was found to be misbranded as per the test and re-test reports and the defence raised by the petitioners can be considered by the learned trial Court after evidence is led. It is further argued that the sample was drawn by following the prescribed procedure, was duly sealed and was thereafter sent for testing. The sample was found to be misbranded both by the State Laboratory and the Central Insecticides Laboratory on re-analysis. It is, therefore, argued that no ground for

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quashing the proceedings is made out. Hence, it is urged that the petition is liable to be dismissed.

6. This Court has heard the rival submissions of learned counsel for the parties.

7. The first submission of learned counsel for the petitioners is that petitioner No.1 is only a Director and petitioner No.2 was only the Godown Incharge and that the company had already nominated Surinder Singh as the responsible person under Section 33 of the Act. This submission cannot be accepted at this stage. The complaint does not proceed merely on the basis of the designation of the petitioners. There are specific allegations against petitioner No.1 that he was the Director and responsible person of the manufacturing company and had submitted an affidavit before the licensing authority for the purposes of Section 33 of the Act. Similar allegations have been made against petitioner No.2, who has been described as the Godown Incharge and who had also submitted an affidavit under Section 33 of the Act. The complaint further alleges that they had failed to discharge their respective duties in relation to the misbranded insecticide. Section 33(1) of the Act fastens liability upon every person who, at the time when the offence was committed, was in charge of and was responsible to the company for the conduct of its business. Section 33(2) further provides for liability of a Director, Manager, Secretary or other officer where the offence has been committed with his consent or connivance or is attributable to his neglect. At this stage, the Court is required to see whether the complaint contains the basic allegations necessary to proceed against the petitioners. Whether the petitioners were actually in charge of and responsible for the relevant affairs

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of the company, whether there was any neglect on their part and whether the allegations are ultimately proved are matters which would require consideration of evidence.

8. The mere fact that Surinder Singh had also been nominated as the responsible person under Section 33 of the Act does not, by itself, give immunity to the petitioners. The complaint specifically names Surinder Singh as the person responsible for quality control and conduct of business, but it contains separate allegations against the petitioners and refers to their respective affidavits and positions in the company. The prosecution of one officer, therefore, cannot be treated as a bar to the prosecution of another officer against whom there are specific allegations. The defence of the petitioners that they were not responsible for quality control or that their role was limited can be examined by the learned trial Court on the basis of the evidence.

9. The next submission relates to the alleged difference in the batch number. Learned counsel for the petitioners has relied upon the invoice to argue that the company had supplied Batch No. MCPCH1816 and not Batch No. MCPCH1815. The State, however, has specifically disputed this assertion and has placed on record the reply submitted by petitioner No.1 to the show cause notice as well as the invoice, both of which, refer to Batch No. MCPCH1815. At this stage, this Court cannot undertake a detailed examination of the invoice, the replies submitted by the parties or the correctness of the respective versions regarding the batch number. The question whether the sampled material was in fact supplied by the petitioners' company and whether the documents relied upon by either side

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establish or disprove such linkage are matters of evidence. The same cannot be conclusively decided in proceedings under Section 482 Cr.P.C.

10. The argument that the dealer was not authorised to stock or sell the products of the petitioners' company also does not, at this stage, render the prosecution against the petitioners unsustainable. The State itself relies upon the alleged purchase of the insecticide from the petitioners' company and the invoice forming part of the record. The fact that the dealer may have violated the conditions of his licence does not, by itself, rule out the prosecution case against the manufacturer or its responsible officials. Whether the sampled material was actually manufactured and supplied by the petitioners' company is a matter which can be tested during trial.

11. As regards petitioner No.2, learned counsel has argued that he had left the services of the company in April 2019, whereas the sample was drawn on 13.06.2019. The State, on the other hand, has relied upon the fact that the insecticide in question had been manufactured in July 2018 and had been supplied to the dealer in August 2018. Thus, the effect of petitioner No.2 having left the services of the company in April 2019, his actual responsibilities during the relevant period and the extent of his connection with the concerned batch are all matters which would require appreciation of the documentary and oral evidence. The same cannot be conclusively determined in the present proceedings.

12. The submission regarding the alleged irregularity in sampling also does not furnish a ground for quashing the proceedings. The State has placed on record the procedure followed by the Insecticide Inspector, according to which three test portions were prepared at the spot, duly sealed

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and marked and one portion was handed over to the dealer while the remaining portions were retained in safe custody. One of the retained samples was sent for testing and was found to be misbranded. On the request of the dealer, the reference sample was also re-tested by the Central Insecticides Laboratory, Faridabad and was again found to be misbranded.

13. As regards the objection regarding non-compliance with Section 202 Cr.P.C., the same also does not merit acceptance. The complaint in the present case was instituted by the Insecticide Inspector, who is a public servant, in discharge of his official duties. The Hon'ble Supreme Court in ***The State of Kerala and another v. M/s Panacea Biotec Ltd. and another, 2026 INSC 200***, has recently considered the scope of Section 202 Cr.P.C. in a complaint instituted by a statutory Inspector and held that the provision has to be read harmoniously with Section 200 Cr.P.C. and that where the complaint is made in writing by a public servant acting in discharge of his official duties, the Magistrate is not required to examine the complainant and the witnesses on oath in the manner applicable to a private complaint. In view of the said judgment, the mere fact that the petitioners were residing outside the territorial jurisdiction of the learned Magistrate and that no separate inquiry under Section 202 Cr.P.C. was conducted cannot, in the facts of the present case, be made a ground to quash the proceedings. So far as the summoning order is concerned, the learned Magistrate, while dealing with the complaint, recorded that the complaint had been filed by the Insecticide Inspector in his public capacity and that, on perusal of the record, sufficient grounds existed to proceed against the accused for the offences under Sections 29 and 33 of the Act. The order is brief, but it cannot be

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examined in isolation from the complaint and the material placed before the learned Magistrate. The complaint itself contained the allegations regarding the sample, the test report, the re-test report and the respective roles attributed to the petitioners.

14. At this stage, this Court is not required to determine whether the allegations against the petitioners would ultimately stand proved. The limited question is whether the complaint and the material placed on record disclose such a complete absence of a prima facie case that continuation of the proceedings would amount to abuse of the process of law. In the present case, that test is not satisfied. The sample was found to be misbranded by the State Laboratory as well as by the Central Insecticides Laboratory on re-analysis. The manufacturing company is connected with the product in question. The complaint contains allegations regarding the respective roles of the petitioners and refers to their affidavits under Section 33 of the Act. The competent authority had also granted written sanction for launching the prosecution. The petitioners have raised several factual defences, including the alleged difference in the batch number, the source of the sampled material, the authority of the dealer to stock the product, the role of petitioner No.2 and the respective responsibilities of the company officials. These matters cannot be decided by this Court by undertaking a mini trial in exercise of its inherent jurisdiction. The petitioners would have adequate opportunity to raise all such pleas before the learned trial Court in accordance with law.

15. Keeping in view the discussion made above, this Court is of the considered opinion that no ground is made out for exercise of the inherent

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jurisdiction of this Court under Section 482 Cr.P.C. The present petition is, accordingly, dismissed.

16. It is, however, clarified that nothing stated herein shall be taken as an expression of opinion on the merits of the case or the ultimate guilt or innocence of the petitioners. The learned trial Court shall decide the case on the basis of the evidence led before it, uninfluenced by any observation made in the present order.

07.09.2026 **(MANISHA BATRA)**
Waseem R. Ansari **JUDGE**

Whether speaking/reasoned *Yes*

Whether reportable *Yes*

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