



**IN THE HIGH COURT OF ANDHRA PRADESH, AMARAVATI**

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**CRIMINAL PETITION No. 6702 of 2014**

**Between:**

1. Ravi Singhal, S/o.Vive Singhal, Age 48 years,  
Occupation CEO of M/s.Biotech International Limited,  
VIPPS Centre, 2, Local Shopping Centre,  
Block-EFGH, Masjid Moth, Greater Kailash-II,  
New Delhi-110048.
2. M/s.Biotech International Limited,  
Represented by CEO Mr.Ravi Singhal, S/o.Vive Singhal,  
VIPPS Centre, 2, Local Shopping Centre,  
Block-EFGH, Masjid Moth, Greater Kailash-II,  
New Delhi-110048, having office at 2-7-139,  
Bearer Lane, Sikh Village, Secunderabad.  
... Petitioners/Accused Nos.4 & 5

**And**

1. The State of A.P., Represented by Public Prosecutor,  
High Court of A.P., Amaravati.
2. V.Sasidhar,  
Mandal Agriculture Officer,  
Quality Control Inspector,  
Pamur, Prakasam District.  
.. Respondents

DATE OF JUDGMENT PRONOUNCED: **14-06-2023**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**

1. Whether Reporters of Local Newspapers  
may be allowed to see the judgment? Yes/No
2. Whether the copies of judgment may be  
marked to Law Reporters / Journals? Yes/No
3. Whether His Lordship wish to  
see the fair copy of the Judgment? Yes/No

**DUPPALA VENKATA RAMANA, J**



**\* THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**

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**! Counsel for Petitioners** : Sri Avinash Desai

**^ Counsel for Respondents** : Asst.Public Prosecutor (State)  
Sri C.Subodh-2<sup>nd</sup> respondent

**< Gist:**

**> Head Note:**

**? Cases referred:**

1. AIR 1998 SC 1919
2. 2018 SCC Online P&H 5958
3. 2014 SCC Online P&H 24852
4. 2017 (1) ALD (CrI.) 1042 (AP)

This Court made the following:

**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA****CRIMINAL PETITION No. 6702 of 2014****ORDER:**

This Criminal Petition has been filed by the petitioners/A.4 and A.5 under Section 482 of the Code of Criminal Procedure, 1973, (for short "Cr.P.C") for quashing the proceedings in C.C.No.569 of 2013 on the file of the Court of II Additional Munsif Magistrate, Ongole for the offence under Sections 29(1)(a) read with Section 3(K)(i) of the Insecticides Act, 1968 (hereinafter referred to as "the Act"), against them.

2. Heard Sri Avinash Desai, learned counsel for the petitioners; learned Assistant Public Prosecutor for the respondent No.1-State and Sri C.Subodh, learned counsel for the 2<sup>nd</sup> respondent, apart from perusing the material available on record.

3. The brief facts of the case are that A.1 is the firm dealing with the pesticides business as a retail dealer under the name and style of "M/s.Agros Rythu Seva Kendram", Pamur, and A.2 is the Proprietor of A.1 firm carrying on business in the premises situated at D.No.2-212, Ranganayakulu Building, Nellore Road, Pamur. A.3 is the Company distributing the Insecticides under the name and style of "M/s.Biotech



International Limited”; A.4 is the C.E.O of the A.3 Company responsible for the manufacture of A.3 firm and A.5 is the firm responsible for manufacturing misbranded pesticides under the name and style of “M/s.Biotech International Limited”. The petitioners herein are the Accused Nos.4 and 5 in the above CC No.569 of 2013.

(ii) On 05.02.2010, L.W.1-B.Sreenivasa Chakravarthy, who was working as Mandal Agriculture Officer at the time of the incident, inspected the premises of M/s.Agro Rythu Seva Kendram, situated at D.No.2-212, Ranganayakulu building, Pamur, Nellore Road and suspected the Insecticides to be misbranded and has drawn the pesticide sample i.e., Azadirachtin 1.1% EC, trade name -Neemarin. At the time of inspection, A.2, who is the Proprietor of the A.1 firm was present in the shop and carrying on the business of Insecticides. L.W.1-Complainant served Form-XX duly filled under Rule-33 of the Insecticides Rules, 1971 (for short “the Rules, 1971”) to A.2-Proprietor of A.1 Firm and obtained credit bill for the sample cost mentioned in Form-XX. He has drawn the samples of Azadirachtin 1.1%, (Neemarin trade name), 500 ml., four sealed bottles from out of 10 bottles of 500 ml., stock balance *vide* batch No.S/N100-012 with manufacturing date 08.10.2009 and



expiry date 07.10.2010. All the four sample bottles were thoroughly observed by L.W.1-B.Srinivasa Chakravarthy with regard to the batch number, manufacturing date, expiry date, name of the manufacturer etc., and affixed the paper seal sticker of the Commissioner and Director of Agriculture, Andhra Pradesh, Hyderabad, *vide* Serial No.12/XX/331 on all four bottles of the alleged sample of Azadirachtin 1.1% (Neemarin Trade name) and packed with wrapper paper duly inserted the Form No.XX and XXI and tied with thread and affixed personal seal and the sample was marked as BS/PMR/09-10/BP1. After completion of the process, L.W.1-B.Srinivasa Chakravarthy sent the laboratory sample to the Deputy Director of Agriculture (IA), Pesticides Testing Laboratory, Coding Centre, SAMETI, Hyderabad, for testing as per Rule-34 of the Rules, 1971. One sample marked as a dealer sample was given to A.2, who is the Proprietor of A-1 firm. The 3<sup>rd</sup> sample which was marked as a referee sample was handed over to L.W.2-Joint Director of Agriculture, Ongole, for safe custody. The fourth sample marked to the Commissioner and Director of Agriculture was sent to the Assistant Director of Agriculture (PTL), Rajendranagar, Hyderabad, and the sample procedure was covered under mediatorsnama.



(iii) On 08.03.2010, L.W.1-Complainant received the copy of the test report from the Deputy Director of Agriculture (IA), Pesticides Testing Laboratory and Coding Centre, Hyderabad in Form-XVII, dated 22.02.2010 for sample No.BS/PMR:09-10/BP1 vide Commissioner and Director of Agriculture, A.P., Hyderabad, sticker No.12/XX/331, wherein, the Analyst passed remarks “the sample does not confirm the relevant BIS specification in respect of its active ingredient content and acidity test hence declared as misbranded”. The sample contains Azadirachtin 0% as against 1.0% EC.

(iv) L.W.1-complainant served the duplicate copy of the misbranded report in Form XVII to A.2-Proprietor of A.1 firm and obtained acknowledgment in token of receipt of the misbranded report and seized the balance stock of misbranded pesticides six bottles of Azadirachtin 1% EC each 500 ml., original DC No.Hyd/286/2009-10, dated 07.11.2009 of M/s.Biotech International Limited, Secunderabad, stock register pertaining to 2009-10 and Bill Book one number containing 6 used bills number from 301 to 306 and unused bills from 307 to 350 and issued Form-XIX for the seizure duly covered under mediatorsnama. L.W.1 obtained permission from the II Additional



Munsif Magistrate, Ongole, on 08.03.2010 to retain the seized pesticides and records with him, as per Section 22(2) of the Act.

(v) The copies of the Analytical report in Form No.XVII (misbranded report) along with show cause notice dated 18.03.2010 was sent to Accused Nos.1, 3 and 5 as per Section 24 (2) of the Act, with a request to serve on all the responsible persons i.e., Partners, Proprietor and Chemist etc., with a request them to furnish the names, fathers' names, present and permanent address in respect of partners, proprietor and chemist.

(vi) In reply to the show cause notice issued by L.W.2-Joint Director, Agriculture, Ongole, A.1 firm and its Proprietor/A.2 submitted an explanation on 10.04.2010 and the manufacturer in his explanation dated 15.04.2010 requested L.W.2-Joint Director of Agriculture, to send the referee sample to Central Insecticides Laboratory for reanalysis, which was kept with him as per Section 24(3) and (4) of the Act and the Rules made thereunder.

(vii) On the request of the A.1-firm, L.W.1-Mandal Agricultural Officer and the Quality Control Inspector, Pamur, has filed a requisition before the learned II Additional Munsif Magistrate, Ongole, by depositing the referee sample of



Azadirachtin 1% EC on 23.06.2010 *vide* CPR No.83/2010 with a request to send for analysis to the Central Insecticides Laboratory, Faridabad under Section 24(3) & (4) of the Act. Accordingly, the learned Magistrate sent the referee sample to the Central Insecticides Laboratory for reanalysis on 13.07.2010 *vide* Dis.No.1216. The Central Insecticides Laboratory's report was received from the learned Magistrate by L.W.2-Joint Director, Agriculture, Ongole, on 16.08.2010. The Assistant Director, Chemist, Government of India, Ministry of Agriculture, Department of Agriculture and Cooperation, Directorate of Plant Protection Q & S, CIL NII IV Faridabad, analyzed the sample and passed remarks that "the sample does not conform to the relevant specification in the active ingredient content requirement and is hence misbranded" as it contains Azadirachtin 0% against 1% EC.

(viii) On receipt of Central Insecticides Laboratory Report, L.W.2-Joint Director, Agriculture, has issued show cause notice, dated 16.12.2010 to A.1 to A.5 duly enclosing State and Central Laboratory Reports (both misbranded) to serve on all responsible persons including Chemist, who is in-charge of Quality Control at the time of manufacturing of misbranded Azadirachtin 1% EC batch No.S/N100-012 and asked them to explain for





manufacturing the misbranded and spurious insecticides, distributed (supplied) and sold by violating Section 29(1) (a) read with Section 3(K)(i) of the Act. The explanation submitted by the dealer and manufacturer is not satisfactory and it is a clear case of violation of the Act and L.W.1- Complainant submitted the record to the District Collector and District Magistrate for sanction of prosecution of the accused. Accordingly, the District Collector exercised the power and accorded sanction for the prosecution of all the accused by authorizing L.W.1- Complainant to file a complaint. L.W.1- Complainant found a *prima facie* case against all the accused regarding their complicity in the commission of the said offences and filed a complaint in the trial Court and the said complaint was filed within limitation as per Section 468(2)(c) Cr.P.C. Questioning the same, the petitioners/A.4 and A.5 filed this criminal petition seeking to quash the proceedings in CC No.569 of 2013 pending against them.

4. Learned counsel for the Petitioners/A.4 & A.5 would submit that, as per the State Analyst Report dated 22.02.2010, the samples sent to the State Pesticides Testing Laboratory, Hyderabad were declared as misbranded. Further, he would submit that, on receipt of show-cause notice from the Joint



Director, Agriculture, Ongole, the petitioners/A.4 and A.5 requested the Joint Director to send the referee sample to the Central Insecticides Laboratory, Faridabad for reanalysis. Accordingly, the learned Magistrate forwarded the sample to the Assistant Director, Central Insecticides Laboratory, Faridabad, who found that the sample received by them was not tallied and having discrepancies with regard to the batch numbers and communicated the same through a letter dated 30.07.2010 to the learned Magistrate by the Assistant Director which shows that the samples drawn by the Complainant and the samples sent to the Central Insecticides Laboratory, Faridabad are different. Therefore, the Analyst Report issued by Central Insecticides Laboratory, Faridabad cannot be taken into consideration. Further, the learned counsel for the petitioners would submit that the complaint filed by the Complainant is far beyond the period of three years and is hit by the provisions contained in Section 468 Cr.P.C. Further, he argued that the samples were drawn on 05.02.2010 and the State Analyst Report was issued on 22.02.2010 showing that the samples sent by the Complainant are misbranded and the complaint was filed on 05.03.2013 is beyond the period of limitation of three years.



On either of the grounds, the complaint is not maintainable and is liable to be quashed.

5. The learned Assistant Public Prosecutor would submit that there is no merit in the contentions of the petitioners/A.4 and A.5. He would further submit that the matter requires a trial to ascertain the truth or otherwise. There are absolutely no valid legal grounds emanating from the record warranting interference of this Court under Section 482 Cr.P.C to quash the proceedings against the petitioners/A.4 and A.5. Therefore, he would pray for the dismissal of the petition.

6. Learned counsel for the 2<sup>nd</sup> respondent submits that the samples were drawn on 05.02.2010, the State Analyst Report was received by the Complainant on 08.03.2010 that the sample was misbranded and therefore, the period of limitation starts and the Complaint was filed by the complainant on 05.03.2013 within the limitation period of three years from the date of receipt of State Analyst Report but not from the date of lifting samples. Further, he would submit that, on receipt of the letter from the Central Insecticides Laboratory, complied with the said discrepancies and the Central Insecticides Laboratory, Faridabad issued a report on 16.08.2010 declaring that the sample received by them does not conform to the relevant



specifications and it is misbranded and therefore, there is no force in the arguments submitted by the learned counsel for the petitioners and prays for dismissal of the petition.

7. Now the point for determination is:

Whether there are any merits to allow the criminal petition?

POINT:

8. The point which requires consideration is, from which date, the limitation for initiating the proceedings for violation of the provisions of the Insecticides Act, 1968, and the Insecticides Rules, 1971, will start.

9. In answer to this question, a reference should be made to the observations of the Hon'ble Supreme Court in the case of **State of Rajasthan Vs. Sanjay Kumar & Ors.**<sup>1</sup> which are as follows:

*“Under cognate legislations of different States, similar questions arose before the High Courts. In R.S.Arrora Vs. The State (1987) Crl. Law Journal 1225, the question which fell for consideration of Delhi High Court was whether for prosecution under Sections 7, 19 and 16(1) of the Seeds Act, 1966, the period of limitation of six months would start from the date of collection of samples under clause (a) or from the date of Seed Analyst report for purposes of clause (b) of Section 469(1) Cr.P.C. The learned Single Judge of the Delhi High Court took the view that the limitation commences from the date of submission of the report by the seed analyst to*

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<sup>1</sup>. AIR 1998 SC 1919



*the Inspector, so Section 469(1)(b) would apply. The same view was taken by the Bombay High Court in Omprakash Gulabchandji Partani vs. Ashok & Anr (1992) Cr.L.J.2704.*

*In M/s. Satyanarayana General Traders & Ors. Vs. State (1993) 2 Crimes 203, a learned Single Judge of the Andhra Pradesh High Court held that for prosecution of offences of mis-branding under Insecticides Act, the period of limitation would start from the date on which the report of the analyst was received but not from the date of taking samples and thus Section 469(1) (b) would be attracted.”*

10. In another decision of **M/s.Zimidara Kheti and another Vs. State of Punjab**<sup>2</sup>dated 11.10.2018 the Punjab and Haryana High Court held as under:

*“...as per the mandate of Section 468(3) of Cr.P.C.; and Judgment of Supreme Court in the case of State of Rajasthan (supra) complaint in the present case could have been filed, at the best, within a period of 03 years from the date of receipt of report of the Government Analyst.”*

11. In the case of **M/s.P.B.Pesticides and another Vs. The State of Punjab and others**<sup>3</sup>, dated 24.02.2014 the Punjab and Haryana High Court held as under:

*“On receipt of the report of the Laboratory, this fact came to the notice of the complainant that the sample was misbranded and thereafter period of limitation starts.....”*

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<sup>2</sup>2018 SCC Online P&H 5958

<sup>3</sup> 2014 SCC Online P&H 24852



12. Section 29 of the Insecticides Act, 1968 reads as under:

*“29. Offences and punishment.—(1) Whoever,—*

- (a) imports, manufactures, sells, stocks or exhibits for sale or distributes any insecticide deemed to be misbranded under sub-clause (i) or sub-clause (iii) or sub-clause (viii) of clause (k) of section 3; or*
- (b) imports or manufactures any insecticide without a certificate of registration; or*
- (c) manufactures, sells, stocks or exhibits for sale or distributes an insecticide without a licence; or*
- (d) sells or distributes an insecticide, in contravention of section 27; or*
- (e) causes an insecticides, the use of which has been prohibited under section 27, to be used by any worker; or*
- (f) obstructs an Insecticide Inspector in the exercise of his powers or discharge of his duties under this Act or the rules made thereunder,*

*[shall be punishable—*

- (i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both;*
- (ii) for the second and a subsequent offence, with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifteen thousand rupees but which may extend to seventy-five thousand rupees, or with both].*

13. The complaint was filed by the complainant under Section 29(1)(a) read with Section 3(K)(i) of the Insecticides Act. The



complaint filed on 05.03.2013 is within the period of three years.

The provision contained in Section 468 Cr.P.C reads as follows:

*"468. Bar to taking cognizance after lapse of the period of limitation -*

*(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.*

*(2) The period of limitation shall be--*

*(a) six months, if the offence is punishable with fine only;*

*(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;*

*(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.*

*(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."*

*Section 469 Cr.P.C. deals with the commencement of period of limitation and provides as follows :-*

*"46*

*9. Commencement of the period of limitation - (1) The period of limitation, in relation to an offender, shall commence -*

*(a) on the date of the offence; or Kumar Deepak  
2014.03.03 12:48 I attest to the accuracy and integrity of  
this document*

*(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or*

*(c) where it is not known by whom the offence was committed, the first the day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier."*



14. In the light of the above decisions and provision of law, in the present case, samples were drawn on 05.02.2010 and the samples were found misbranded as per the State Analyst Report dated 22.02.2010 and the same was communicated to the Complainant on 08.03.2010. The complaint was filed by the Complainant on 05.03.2013. The limitation for filing complaint would start from the date of receipt of the report of the Government Analyst as per the decision stated *supra*. The complaint was filed against the petitioners on 05.03.2013 which is within the period of three years. Hence, it cannot be said that the complaint filed by the complainant is time-barred. Section 468 Cr.P.C cannot prohibit the Court from taking cognizance of the offence and the cognizance taken by the Magistrate cannot be vitiated.

15. Though the learned counsel for the petitioners/A.4 and A.5 relied on the judgment in **Bajaj Finance Limited Vs. State of A.P. and others**<sup>4</sup>, having regard to the facts of the case and the material available on record on hand, this Court is of the opinion that the said judgment is not helpful to the case of the petitioners/A.4 and A.5. A given set of facts of the above decision are different with the facts of the present case.

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<sup>4</sup>2017 (1) ALD (Cr1.) 1042 (AP)





Therefore, the arguments advanced by the learned counsel for the petitioners/A.4 and A.5 by relying on the above decision, have no force and cannot be a ground to quash the criminal proceedings against the petitioners/A.4 and A.5.

16. Further, on perusal of the State Analyst report, dated 22.02.2010 the name of the Insecticides purporting to be contained in the sample is Azadirachtin-1.0% EC, the Serial No.12/XX/132, and the remarks of the Insecticide Analyst is that “the sample failed to conform to the relevant BIS specifications in the active ingredient content test conducted, hence, misbranded”. The same is also reflected in the Central Insecticides Laboratory Report dated 16.08.2010. The samples do not conform to the relevant specifications in the Active Ingredient Content Test, and hence, misbranded. Central and State Laboratory Test reports were filed along with the complaint by the complainant. The Insecticides which were offered for sale were substandard and misbranded within the meaning of the Act. Therefore, the accused have violated the provisions under the Act and the Rules made thereunder and thereby, committed the offence under the Act. As such, the learned Magistrate has taken cognizance of the same.



17. In view of the above-settled proposition of law and the principles laid down by the Hon'ble Supreme Court, Section 482 Cr.P.C., has to be used sparingly though the powers are wide. The substance of all the decisions is that when the allegations of the complaint are taken on its face value, it discloses the offence committed by the accused supported by analysts' reports and the complaint was filed within the period of limitation as discussed above, which fortifies the fact that the act criminal in nature was done which is liable to be decided during the full-fledged trial in the criminal proceedings. Therefore, it cannot be said that there is an abuse of the process of law.

18. Therefore, upon considering the entire material and for the reasons stated above and after following the principles of law laid down by the Hon'ble Supreme Court as discussed above, this Court does not find any abuse of process of the Court in initiating criminal proceedings against the petitioners/A.4 and A.5. Therefore, the criminal petition is liable to be dismissed.

19. Resultantly, the present criminal petition seeking quash of the proceedings in CC No.569 of 2013 on the file of the Court of II Additional Munsif Magistrate, Ongole, lacks merit and stands dismissed.



However, the petitioners/A.4 and A.5 are at liberty to raise all the contentions before the trial court at the time of trial. All the contentions of the parties on merits are left open. It is made clear that none of the observations contained herein shall have bearing on the trial of the main case and the trial Court shall independently arrive at its conclusion based on the material on record and the evidence rendered before it.

Miscellaneous petitions pending, if any, shall stand closed.

**JUSTICE DUPPALA VENKATA RAMANA**

14.06.2023

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**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**

**CRIMINAL PETITION No.6702 OF 2014**

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