

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

CRM-M _____ OF 2026

In the matter of:

M/s Avensis Crop Science Pvt. Ltd. & Ors Petitioners

Versus

State of Punjab Respondents

MEMO OF PARTIES

1. M/s Avensis Crop Science Pvt. Ltd. through its authorized Representative Mr. Puran Nirankari, Godwon No.11 to 15 Opposite Ambuja Cement Factory, Near Kali Mata Mandir, Malout Road, Bathinda.

2. Sh. Puran Nirankari d/o Sh. Pardaman Chand r/o #26187, Gali No. 2-1/2, Amarpura Basti, Bathinda-151001, Punjab.

Adhaar Card No:8741-7661-0927, Phone N. +91-9872429003

3. Sh. Parvesh Kumar Tyagi, s/o Shri Shiv Kumar Tyagi, r/o 147/1, CH Charan Singh colony, Roorkee, Delhi Road, Mohanpur, Haridwar, Milap Nagar, Uttarakhand-24766

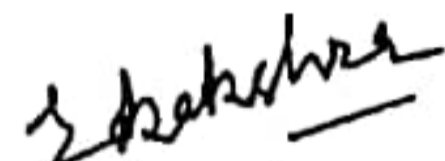
Adhaar Card No:7011-2850-5323, Phone N. +91-9872429003

..... Petitioners

VERSUS

State of Punjab through Insecticide Inspector, Dera Baba Nanak, Gurdaspur.

..... Respondent



Through Counsel
Ekakshra Mahajan Mandhar
Advocate
P-5298/2018] +91-98141-66666
Counsel for the Petitioner

Settled By

**VIPIN MAHAJAN
SENIOR ADVOCATE**

QUASHING PETITION UNDER SECTION 528 OF THE BHARATIYA NAGRIK SURAKSHA SANHITA, 2023^(1989 Act) FOR QUASHING COMPLAINT NO. COMA/43/2025 DATED 25.04.2025 UNDER SECTIONS 3k(1), 17, 18, 29 AND 33 OF THE INSECTICIDES ACT, 1968 READ WITH RULE 27(5) OF THE INSECTICIDES RULES, 1971 (ANNEXURE P/2) AND SUMMONING ORDER DATED 25.04.2025 (ANNEXURE P/3) AGAINST THE PRESENT PETITIONERS, PENDING BEFORE THE COURT OF SUB-DIVISIONAL MAGISTRATE, 1ST CLASS, BATALA (GURDASPUR) AND ALL CONSEQUENTIAL PROCEEDINGS ARISING THEREFROM;

AND

FURTHER TO STAY ALL SUBSEQUENT PROCEEDINGS IN COMPLAINT NO. COMA/43/2025 DATED 25.04.2025 (ANNEXURE P/2) AGAINST THE PETITIONERS DURING THE PENDENCY OF THE PRESENT PETITION;

AND

ANY OTHER RELIEF, WHICH THIS HON'BLE COURT MAY DEEM FIT AND PROPER IN THE FACTS AND CIRCUMSTANCES OF THE CASE, MAY ALSO BE KINDLY GRANTED IN FAVOUR OF THE PETITIONERS;

MOST RESPECTFULLY SHOWETH:

1. That the present petition is being filed by the Petitioners herein for quashing of Complaint No. COMA/43/2025 dated 23.04.2025 under Sections 3k(1), 17, 18, 29 and 33 of the Insecticides Act, 1968



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-15838-2026 (O&M)

Reserved on:-05.05.2026

Pronounced on: 11.05.2026

Uploaded on:- 12.05.2026

**M/S AVENSIS CROP SCIENCES PVT LTD AND OTHERS
.....PETITIONERS**

VERSUS

**STATE OF PUNJAB
.....RESPONDENT**

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Ms. Ekakshra Mahajan Mandhar, Advocate
for the petitioners.

Mr. Hardeep Singh Wadhwa, DAG, Punjab.

MANDEEP PANNU, J (ORAL)

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of Complaint No. COMA/43/2025 dated 23.04.2025 under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971 and summoning order dated 25.04.2025 passed by the learned Sub-Divisional Magistrate, 1st Class, Batala (Gurdaspur), and all consequential proceedings arising therefrom, qua the present petitioners.

2. Briefly stated, the facts of the present case are that Complaint No. COMA/43/2025 dated 23.04.2025 under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971 was filed by the Insecticide Inspector, Dera Baba Nanak,

District Gurdaspur against the dealer firm, manufacturer company, marketing company and their officials alleging that the insecticide sample in question was found to be misbranded.

3. As per the allegations levelled in the complaint, the Insecticide Inspector had inspected the premises of the dealer and during inspection had found the insecticide in question lying in stock in sealed packing/containers. One sample from the said stock was drawn in accordance with the procedure prescribed under the Insecticides Act, 1968 and the Rules framed thereunder. The sample was thereafter divided into requisite portions, sealed and sent to the notified laboratory for analysis. It has further been alleged that upon analysis, the sample was declared to be misbranded as the active ingredient/content was found not conforming to the prescribed I.S. specifications and was allegedly lesser than the declared composition mentioned on the label/container. Thereafter, at the instance of the dealer, the second counterpart of the sample was sent to the Central Insecticides Laboratory for re-analysis/retesting and even in the retest report, the sample was again declared to be misbranded for not conforming to the prescribed standards with respect to active ingredient contents.

4. On the basis of the aforesaid reports, the respondent-department proceeded to file the present complaint against various accused persons including the dealer, manufacturer and marketer. In the complaint, allegations have been levelled that the insecticide in question was manufactured, marketed, distributed and sold with the knowledge, consent and connivance of the accused persons and that all the accused persons were responsible for the conduct of the business relating to the said product.

5. The dealer firm has been arrayed as accused on the allegations that the sample in question was lifted from its premises and that it was found stocking and selling the insecticide in question. The manufacturing company and its concerned officials have been impleaded on the allegations that they were responsible for manufacture, formulation and quality control of the insecticide in question. The present petitioner No.1 i.e. M/s Avensis Crop Science Pvt. Ltd. has been arrayed as accused being the marketing company of the insecticide in question, whereas petitioner No.2 has been impleaded being the Director of the said company and petitioner No.3 has been arrayed as accused being an officer/official of the company. The allegations against the present petitioners are primarily to the effect that they had marketed/distributed the insecticide in question and had failed to ensure compliance of the prescribed standards/specifications and, therefore, are liable for prosecution under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968.

6. On the basis of the aforesaid allegations, the learned Sub-Divisional Judicial Magistrate, Batala (Gurdaspur), vide summoning order dated 25.04.2025, summoned the accused persons including the present petitioners to face trial in the aforesaid complaint.

7. The petitioners have assailed the impugned complaint and summoning order primarily on the ground that the sample in question was admittedly drawn from the premises of the dealer and not from the premises of the present petitioners. It has been contended that the complaint itself records that the insecticide was lifted from the stock of the dealer from sealed/original packing and, therefore, no presumption whatsoever can be raised against the present petitioners in the absence of any allegation that the

petitioners had tampered with, adulterated, manipulated or altered the contents of the insecticide in any manner.

8. It has further been contended that petitioner No.1 is merely a marketing/distribution company and is not the manufacturer of the insecticide in question. Petitioners No.2 and 3 have been arrayed as accused only being officials/directors of the marketing company. The actual manufacture, formulation, composition, quality control and conformity with the prescribed standards were entirely within the domain of the manufacturing company and, therefore, no liability can be fastened upon the present petitioners merely because they were marketing the product in question. Learned counsel for the petitioners has further argued that there is not even a whisper of allegation in the complaint that the petitioners had indulged in any act of tampering, interjection, adulteration, improper storage or manipulation of the insecticide. No specific role has been attributed to the petitioners showing their involvement in the alleged misbranding except making bald and omnibus allegations that the product was marketed/distributed with their knowledge, consent and connivance. It is contended that such vague and mechanical allegations are wholly insufficient to attract criminal liability under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968.

9. It has also been argued that Section 33 of the Insecticides Act creates vicarious liability only against those persons who were in charge of and responsible for the conduct of the business of the company at the relevant time and only where a specific role regarding the commission of offence has been attributed. In the present case, there are no specific averments in the complaint demonstrating as to how the present petitioners

were personally responsible for the alleged offence or how they had any control over the manufacturing process, active ingredient composition or quality control mechanism of the insecticide in question. The petitioners have further contended that the sanction granted under Section 31 of the Insecticides Act has been accorded in a purely mechanical manner without application of mind inasmuch as no independent satisfaction has been recorded regarding the specific role of the present petitioners. It is submitted that the sanctioning authority failed to examine whether any material existed to connect the petitioners with the alleged act of misbranding and merely granted sanction in a routine and mechanical manner. It has further been argued that the mandatory proviso to Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 was not complied with before taking cognizance and issuing summoning order against the petitioners, as no opportunity of hearing was afforded to them prior to issuance of process. According to the petitioners, the said requirement being mandatory in nature, the cognizance and consequent summoning order stand vitiated in the eyes of law.

10. In support of the aforesaid submissions, learned counsel for the petitioners has heavily relied upon the judgment rendered by this Hon'ble Court in *M/s Rallis India Limited and others versus State of Punjab through Insecticide Inspector*, CRM-M No.20338 of 2017, decided on 20.04.2022, wherein under similar circumstances, proceedings against the marketing company and its officials were quashed by holding that where the sample had been drawn from the dealer from sealed packing and there was no allegation regarding tampering, adulteration or involvement in the manufacturing process, the marketing company and its officials could not be held vicariously liable for alleged misbranding of the insecticide.

11. The petitioners have also placed reliance upon the judgments rendered in *Lochen Kheti Sewa Centre versus State of Punjab, 2008(2) RCR (Criminal) 22* as well as '*M/s Cheminova India Limited and another versus State of Punjab and others*', decided on 04.08.2021 passed in *Criminal Appeal No.750 of 2021* to contend that prosecution under the Insecticides Act cannot be permitted to continue against persons against whom no specific allegations or statutory ingredients constituting the offence are made out.

12. Notice of motion in the present petition is yet to be issued to the respondent-State.

13. However, on advance service, Mr. Hardeep Singh Wadhwa, DAG, Punjab has appeared on behalf of the respondent-State and opposed the present petition. He has argued that both the original analyst report as well as the report of the Central Insecticides Laboratory categorically declare the sample in question to be misbranded for not conforming to the prescribed specifications regarding active ingredient contents and, therefore, a *prima facie* case under the provisions of the Insecticides Act, 1968 is clearly made out against all the accused persons including the present petitioners. It has further been contended on behalf of the State that the complaint specifically alleges that the insecticide in question was manufactured, marketed, distributed and sold with the knowledge, consent and connivance of the accused persons and that the present petitioners being the marketing company and its responsible officials cannot escape liability at this preliminary stage. Learned State counsel has argued that the petitioners were actively involved in distribution and marketing of the insecticide and,

therefore, their complicity cannot be ruled out merely on the ground that the sample was lifted from the dealer.

14. It has also been submitted that disputed questions of fact are involved in the present matter and the pleas raised by the petitioners regarding absence of liability, lack of knowledge or non-involvement in the alleged offence are matters of evidence which can only be adjudicated upon during trial after the parties lead their respective evidence. Learned State counsel has thus contended the learned trial Court has rightly summoned the accused after considering the material placed on record, and, therefore, the present petition does not warrant interference by this Court in exercise of its inherent jurisdiction under Section 528 BNSS.

15. Having heard learned counsel for the parties and after perusing the paper-book as well as the statutory provisions governing the field, this Court finds merit in the present petition.

16. It is not in dispute that the sample in question was not drawn from the premises of the present petitioners but was admittedly lifted from the premises of the dealer from whom the insecticide was being sold in sealed condition. It is further borne out from the complaint itself that petitioner No.1 is merely a marketing/distribution company, petitioner No.2 is its Director and petitioner No.3 is officer/official of the company. The complaint nowhere alleges that the present petitioners were the manufacturers of the insecticide in question or that they had any role in formulation, composition, processing, packing, sealing, storage, sampling or testing of the product. There is also no specific allegation that the petitioners had tampered with the contents of the sealed containers or had indulged in

any act affecting the quality or active ingredient composition of the insecticide.

17. A perusal of Sections 17 and 18 of the Insecticides Act, 1968 would show that the statutory prohibition primarily operates against the person who imports, manufactures, sells or distributes a misbranded insecticide or an insecticide in contravention of the provisions of the Act. However, for fastening criminal liability, there has to be a clear and specific allegation showing the role attributable to the accused in the alleged misbranding or contravention. In the present case, except for vague and omnibus allegations that the petitioners being marketers had consented to, connived in, or failed to prevent the alleged offence, no factual foundation has been laid in the complaint to disclose as to how the petitioners were responsible for the alleged defect in the product. Mere use of the expressions “consent”, “connivance” or “negligence” in a mechanical manner, without any supporting material particulars, would not be sufficient to prosecute the petitioners.

18. The complaint itself proceeds on the basis that the insecticide was manufactured by the manufacturing concern and merely marketed/distributed by petitioner No.1-company. Once the role of the present petitioners is confined to that of marketers/distributors and there is no allegation of adulteration, tampering or manipulation attributable to them, the essential ingredients of Sections 17 and 18 of the Act are not satisfied qua the petitioners.

19. At this stage, it would also be apposite to notice Section 33 of the Act dealing with offences by companies. A plain reading of the said provision shows that it merely specifies the category of persons who can be

held vicariously liable where an offence by a company is otherwise made out. The provision does not create an independent substantive offence. Before invoking Section 33 of the Act, the prosecution must first establish that the company itself has committed an offence under the Act. Only thereafter can the question arise as to which persons were in charge of and responsible for the conduct of the business of the company. Therefore, where no *prima facie* offence is made out against the company itself, the issue of fastening vicarious liability upon its Directors or officers under Section 33 of the Act would not arise at all.

20. In the present case, except describing petitioner No.1 as a marketing company, there is no material to indicate that it had any control over the manufacturing process, quality control measures, chemical composition or active ingredient contents of the insecticide. Consequently, no criminal liability can be fastened either upon petitioner No.1-company or upon petitioners No.2 and 3 by taking recourse to Section 33 of the Act.

21. This Court further finds that the controversy involved in the present matter is squarely covered by the judgment rendered by this Court in *M/s Rallis India Limited's case (supra)*, wherein under similar circumstances proceedings against the marketing company and its officials were quashed while holding that where the sample had been drawn from the dealer, the marketers could not be prosecuted in the absence of any allegation showing their involvement in misbranding, adulteration or tampering of the insecticide. It was further held therein that persons merely dealing with the product without any control over its manufacturing process, quality or contents cannot be held vicariously liable merely because they marketed the same.

22. The ratio of the aforesaid judgment applies on all fours to the facts of the present case. Here also, the sample was drawn from the dealer; the product was found stored in sealed condition; the petitioners are only marketers/distributors; and there is no allegation of tampering, adulteration or manipulation attributable to them. The attempt made in the complaint to implicate the petitioners by employing bald expressions regarding consent, connivance or negligence, without any substantive material, appears to be wholly mechanical and insufficient to sustain criminal prosecution.

23. Accordingly, continuation of the impugned complaint and the consequential proceedings arising therefrom against the present petitioners would amount to abuse of the process of law.

24. Consequently, the present petition is allowed and Complaint No. COMA/43/2025 dated 23.04.2025 under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971, pending before the Court of learned Sub-Divisional Judicial Magistrate, Batala (Gurdaspur), along with summoning order dated 25.04.2025 and all consequential proceedings arising therefrom, are hereby quashed qua the present petitioners only.

25. All pending miscellaneous application(s), if any, stands disposed of.

(MANDEEP PANNU)
JUDGE

11.05.2026

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No