



CNR: KAHC010395472021

NC: 2026:KHC:40168
WP No. 19288 of 2021
C/W WP No. 18845 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 19288 OF 2021 (GM-RES)

C/W

WRIT PETITION NO. 18845 OF 2021 (GM-RES)

IN WP No. 19288/2021

BETWEEN:

K. LAKSHMINADH REDDY
S/O K. OBULA REDDY,
AGED ABOUT 46 YEARS,
C/O VISHVAVIJETHA AGRO INDIA PVT. LTD.
NO.17, 3RD FLOOR, SRI COMPLEX,
S.M. ROAD, OPP. TRIVENI PETROL BUNK,
JALAHALLI WEST,
BANGALORE - 560015

...PETITIONER

(BY SRI. SANGAMESH R.B., ADVOCATE)

AND:

STATE OF KARNATAKA
REPRESENTED BY
ASSISTANT DIRECTOR OF AGRICULTURE
AND AGRICULTURE INSPECTOR
PRIYADARSHINI S.N.,
DEPARTMENT OF AGRICULTURE
PANDAVPURA-571434

...RESPONDENT

(BY SRI. ANOOP KUMAR M.V., HIGH COURT GOVERNMENT PLEADER)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE
CODE OF CRIMINAL PROCEDURE PRAYING TO QUASH THE





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PROCEEDINGS IN C.C.NO.519/2021 (PCR NO.140/2021) PENDING ON THE FILE OF CIVIL JUDGE AND JMFC, PANDAVPURA, MANDYA DIST., PENDING CONSIDERATION OF THE ABOVE PETITION, IN SO FAR AS PETITIONER IS CONCERNED (ACCUSED NO.4) ANNEXURE-A AND ETC.

IN WP NO. 18845/2021:

BETWEEN:

1. M/S GREEN LEAF TECHNOLOGIES
CHEBROLU, GUNTUR,
ANDRA PRADESH-522212
REPRESENTED BY PARTNER,
SRI. K. NAGARJUNA
2. SRI. NAVEEN KUMAR M.
S/O MAHADEVAPPA,
AGED ABOUT 33 YEARS,
GURU AGRO TRADERS,
OPP. GOVERNMENT HOSPITAL,
N.M. ROAD, PANDAVPURA

...PETITIONERS

(BY SRI. SANGAMESH R.B., ADVOCATE)

AND:

STATE OF KARNATAKA
REPRESENTED BY AGRICULTURE OFFICER AND
AGRICULTURE INSPECTOR
P.N. SOMANNA,
DEPARTMENT OF AGRICULTURE,
PANDAVPURA-571434

...RESPONDENT

(BY SRI. ANOOP KUMAR M.V., HIGH COURT GOVERNMENT
PLEADER)

THIS WRIT PETITION IS FILED ARTICLES 226 AND 227 OF THE



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CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE PRAYING TO QUASH THE PROCEEDINGS IN PCR NO.141/2021 AND REGISTERED AS C.C.NO.508/2021 PENDING ON THE FILE OF CIVIL JUDGE AND JMFC, PANDAVAPURA, MANDYA DISTRICT (ANNEXURE-A) IN SO FAR AS PETITIONERS CONCERNED (ACCUSED NO.1 AND 2) AND ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDER ON 30.04.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

CAV ORDER

In W.P.No.19288/2021, the petitioner (accused No.4) has challenged the proceedings initiated by the respondent in C.C.No.519/2021 (arising out of PCR No.140/2021) pending on the file of the Civil Judge and JMFC, Pandavapura, Mandya District and to quash the order dated 20.07.2021 passed by the Trial Court in C.C.No.519/2021 taking cognizance of an offence punishable under Sections 3(k), 9, 13 and 29 of the Insecticides Act, 1968.

2. In W.P.No.18845/2021, the petitioners (accused Nos.2 and 1) have challenged the proceedings initiated by the respondent in C.C.No.508/2021 (arising out of PCR



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No.141/2021) pending on the file of the Civil Judge and JMFC, Pandavpura, Mandya District (henceforth referred to as 'Trial Court'), in so far as they are concerned and to quash the order dated 20.07.2021 passed by the Trial Court in C.C.No.508/2021 taking cognizance of an offence punishable under Sections 3(k), 9, 13 and 29 of the Insecticides Act, 1968 (henceforth referred to as 'Act, 1968').

3. Facts as stated in PCR No.140/2021 (C.C.No.519/2021).

(i) The respondent filed a private complaint under Section 200 of Cr.P.C. alleging that the Assistant Director of Agriculture (respondent herein) along with Sri. Somanna, Agriculture Officer, Agricultural Extension Centre, Kasaba Hobli, Pandavpura Taluk, Sri. Ramegowda, Agriculture Officer, Office of Agriculture Commissioner, Bengaluru and Sri. P. Ramesh Kumar, Joint Director of Agriculture (Vigilance), Bengaluru, visited the godown of M/s. Guru Agro Traders and collected samples of bio-insecticides. It is stated that the owner of M/s Guru Traders had obtained permission from the competent authority for sale of insecticides. The first sample was sent for

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testing under Section 22(6) of the Act, 1968 to the Analyst, Pesticide Residue and Food Quality Analysis Laboratory, University of Agricultural Sciences, Raichur, on 21.08.2019. The second sample was handed over to M/s. Guru Agro Traders. The third sample was retained by the respondent. It is alleged that the Analyst, Pesticide Residue and Food Quality Analysis Laboratory, University of Agricultural Sciences, Raichur, submitted his report stating that the tested bio-insecticide contained pesticides indicated in the schedule to the Act, 1968 and the Insecticides Rules, 1971 (henceforth referred to as 'Rules, 1971'). It was alleged that the tested bio-insecticides did not conform to the standards prescribed as defined under Section 3(k) of the Act of 1968. Besides this, it was alleged that without obtaining registration under the Act, 1968 and mixing insecticides with other products and distributing it for sale is an offence and therefore, notices in that regard were issued. The addressee replied to the notices. It was alleged that the trader without obtaining registration had manufactured and brought for sale bio-medicine under the trade name "Nutron, Bio-opex, Exprimio, Rakshak" and hence, the Licencing



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Authority for Insecticides and the Joint Director of Agriculture, Mandya, had cancelled the licence. It was claimed that the said order was stayed by this Court.

(ii) It was alleged that the manufacturer without obtaining appropriate registration had manufactured insecticides as bio-insecticides which was an offence. The manufacturers of these bio-insecticides were M/s. Chittari Agricare Private Limited, Bengaluru (Nutron), M/s. Nature Bio-organics, Hyderabad (Rakshak), M/s. Green Leaf Technologies, Andhra Pradesh (Bio-opex), Symbiosis Agro Management Private Limited (Exprimo). It was thus alleged that the petitioner had committed offences punishable under Sections 9, 13, 3(k) and 29 of the Act, 1968.

(iii) The Magistrate perused the complaint and took cognizance of the offences mentioned above and issued process. Being aggrieved by the same, the petitioner is before this Court in W.P.No.19288/2021.

4. Facts as stated in PCR No.141/2021 (C.C.No.508/2021).



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(i) The respondent initiated prosecution of the petitioners in PCR No.141/2021 for offences punishable under Section 9, 13, 3(k) and 29 of the Act, 1968. The respondent contended that on 19.08.2019 at 3.00 p.m., the Inspector of Insecticides, the Assistant Director of Agriculture, Pandavpura Taluk, the Agriculture Officer, Office of Agriculture Commissioner, Bengaluru and Joint Director of Agriculture (Vigilance), Bengaluru, inspected the godown of M/s. Guru Agro Traders and found several unregistered insecticides branded as bio-insecticide. The owner of the store claimed that the purchases were made in accordance with law. The samples of the bio-fertilizers were drawn. The respondent claimed that owner of the store had a permission from the competent authority to sell insecticides. One of the samples drawn from the store was sent for analysis to the Analyst, Pesticide Residue and Food Quality Analysis Laboratory, University of Agricultural Sciences, Raichur under Section 22(6) of the Act, 1968 on 21.08.2019. The second sample was handed over to the owner of the store under an acknowledgment. The Analyst gave his report stating that the sampled insecticide contained pesticides



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indicated in the schedule to the Act, 1968. The respondent therefore alleged that the insecticide was misbranded as defined under Section 3(k) of the Act, 1968 and that the same was not registered under the Act, 1968. It was also alleged that combining mixtures of substances contained in the schedule and selling them without registering them before the appropriate authority is an offence. It was claimed that a notice to the accused was issued and the same was replied.

(ii) The owner of the store furnished the bills under which purchases were made. It was alleged that the owner of the store had kept for sale unregistered bio-fertilizer named Alaska, Astra-99, Endex, Exodus, Insearch, Perfekt, Ro-mite, Rudra and Ryder and thus committed an offence. The respondent alleged that the petitioner No.1 is the manufacturer of Alaska, Insearch, Ro-mite. While Astra - 99 was manufactured by Spart Agritech Pvt. Ltd., Endex was manufactured by Agrivin Biotech, while Exodus was manufactured by Jasmin Bio-lab Pvt., Ltd., Perfekt was manufactured by Craft Foundation and Rudra and Ryder were manufactured by Sri. Prasad Shadow Agri Suppliers, without



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obtaining permission and licence. Therefore, the respondent alleged that offences punishable under Sections 13, 3(k), 9 and 29 of the Act, 1968 were committed.

(iii) The Magistrate took cognizance of the aforesaid offences and issued process. The petitioners being accused Nos.1 and 2 have filed W.P.No.18845/2021.

5. Contentions of the learned counsel for the petitioner in W.P.No.19288/2021:

(i) that a reading of the private complaint does not indicate as to how the petitioner is involved in the commission of the offences alleged. He contends that the petitioner is shown as a representative of M/s. Green Leaf Technologies. He contends that the petitioner is not an employee of M/s. Green Leaf Technologies, but is an employee of M/s. Viswa Vijetha Agro (India) Private Limited. In support of this contention, he has placed on record Form No.16 issued for the assessment years 2019-20, 2020-21, 2021-22 and 2022-23. He contends that assuming that the petitioner is an employee of M/s. Green Leaf Technologies, unless it is stated that the petitioner was in



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charge of or was responsible to the company for the conduct of the business of the company, the private complaint registered against the petitioner and the cognizance taken against the petitioner is unconscionable in law. Besides this, he contends that M/s. Green Leaf Technologies is not arraigned as an accused and therefore, there is a clear violation of Section 33 of the Act, 1968, which reads as follows:-

"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:

Provided that nothing contained in this subsection shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.



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(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section:—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

(ii) He contends that without M/s. Green Leaf Technologies being arraigned as an accused, the petitioner cannot be prosecuted for the alleged offences. In support of this contention, he has relied upon the judgments of the Hon'ble Apex Court in the case of **Shailyamanyu Singh vs. State of Maharashtra [(2025) 7 S.C.R. 2085]** and **Pepsi Foods Ltd., and another vs. Special Judicial Magistrate**



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and others [(1998) 5 SCC 749] as well as ***Municipal Corporation of Delhi vs. Ram Kishan Rohtagi and others [(1983) 1 SCC 1]***. He has also relied upon the judgment of a Co-ordinate Bench of this Court in Crl.P.No.100487/2023. He also referred to the judgment of a Co-ordinate Bench of this Court in W.P.Nos.16083/2021 and connected petitions and contended that the right of the petitioner to get a second test done by the Central Laboratory is defeated as the samples have expired and the expiry is attributable to the State.

6. Contentions urged by the learned counsel for the petitioners in W.P.No.18845/2021:

(i) that the petitioner No.1 is a manufacturer of bio-fertilizer which is not included within the schedule mentioned to the Act, 1968 and therefore, no prosecution can be launched against the petitioner No.1.

(ii) that the petitioner No.1 which is a company incorporated under the Companies Act, 1956, is arraigned as an accused. However, no Director or person responsible for the conduct of the business of the petitioner No.1 is arraigned as

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an accused. Therefore, the prosecution launched against the petitioner No.1 is not maintainable. In this regard, he referred to the provisions contained in Section 33 of the Act, 1968 and contended that it is every person who is in charge of or was responsible for the business of the company, who should be arraigned as an accused along with the company. He therefore, submits that the impugned prosecution launched against the petitioner No.1 is not in line with Section 33 of the Act, 1968 and therefore, the prosecution of the petitioner No.1 is liable to be set at nought.

(iii) that the petitioner No.1 had sought for re-analysis after the report was sent to them as per the provisions contained in Section 24(3) of the Act, 1968. However, the respondent did not send the sample for re-analysis and therefore, the petitioner No.1 has lost the right to seek for a second test of the bio-fertilizer. He therefore, contends that this being a substantive defence that the petitioner No.1 was entitled to, is defeated by the act of the respondent.

(iv) As regards petitioner No.2, he contends that the allegation against petitioner No.1 is that the bio-fertilizers is



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manufactured without obtaining any license and is a misbranded product as defined under Section 3(k) of the Act, 1968. He contends that the liability of the manufacturer to obtain a license before manufacturing a bio-product is contained in Section 9 of the Act, 1968, which reads as follows:-

"9. Registration of insecticides.—(1) *Any person desiring to import or manufacture any insecticide may apply to the Registration Committee for the registration of such insecticide and there shall be a separate application for each such insecticide:*

Provided that any person engaged in the business of import or manufacture of any insecticide immediately before the commencement of this section shall make an application to the Registration Committee within a period of seventeen months from the date of such commencement for the registration of any insecticide which he has been importing or manufacturing before that date:

Provided further that where any person referred to in the preceding proviso fails to make an application under that proviso within the period specified therein, he may make such application at any time thereafter on payment of a penalty of one



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hundred rupees for every month or part thereof after the expiry of such period for the registration of each such insecticide.

(2) Every application under sub-section (1) shall be made in such form and contain such particulars as may be prescribed.

(3) On receipt of any such application for the registration of an insecticide, the Committee may, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or by the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register on such conditions as may be specified by it and on payment of such fee as may be prescribed, the insecticide, allot a registration number thereto and issue a certificate of registration in token thereof within a period of twelve months from the date of receipt of the application:

Provided that the Committee may, if it is unable within the said period to arrive at a decision on the basis of the materials placed before it, extend the period by a further period not exceeding six months:



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Provided further that if the Committee is of opinion that the precautions claimed by the applicant as being sufficient to ensure safety to human beings or animals are not such as can be easily observed or that notwithstanding the observance of such precautions the use of the insecticide involves serious risk to human beings or animals, it may refuse to register the insecticide.

(3A) In the case of applications received by it prior to the 31st day of March, 1975, notwithstanding the expiry of the period specified in sub-section (3) for the disposal of such applications, it shall be lawful and shall be deemed always to have been lawful for the Registration Committee to dispose of such applications at any time after such expiry but within a period of one year from the commencement of the Insecticides (Amendment) Act, 1977:

Provided that nothing contained in this sub-section shall be deemed to make any contravention before the commencement of the Insecticides (Amendment) Act, 1977, of a condition of a certificate of registration granted before such commencement, an offence punishable under this Act.

(3B) Where the Registration Committee is of opinion that the insecticide is being introduced for



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the first time in India, it may, pending any enquiry, register it provisionally for a period of two years on such conditions as may be specified by it.

(3C) The Registration Committee may, having regard to the efficacy of the insecticide and its safety to human beings and animals, vary the conditions subject to which a certificate of registration has been granted and may for that purpose require the certificate holder by notice in writing to deliver up the certificate to it within such time as may be specified in the notice.

(4) Notwithstanding anything contained in this section, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture the insecticide or engaged in the business of, import or manufacture thereof shall on application and on payment of prescribed fee be allotted a registration number and granted a certificate of registration in respect thereof on the same conditions on which the insecticide was originally registered."

(v) He therefore, contends that the petitioner No.2 who is only a dealer cannot be prosecuted for an offence punishable under Section 29 of the Act, 1968. He contends that the petitioner No.2 has admittedly obtained a licence under Section



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13 of the Act, 1968 for sale, exhibition for sale of any insecticide and therefore, the petitioner No.2 cannot be accused of an offence punishable under Section 29 of the Act, 1968.

7. (i) Per contra, the learned High Court Government Pleader submitted that after charge sheet was filed, M/s. Green Leaf Technology was contacted to secure information regarding the person responsible for the affairs of the company and also whether the petitioner/accused No.4 in C.C.No. 519 of 2021 is the person responsible. He contends that information was furnished to the respondent that one Mr. Alapathi Chakravarthy is the person responsible for the affairs of the company namely M/s. Green Leaf Technologies. It is based on the said letter, an application is filed before the Magistrate to substitute the petitioner/accused No.4 in C.C.No.519/2021 by Mr. Alapathi Chakravarthy.

(ii) As regards the contentions urged in W.P.No.18845/2021, he contends that though the petitioner No.2 has obtained registration to deal in Insecticides, but the petitioner No.1 has not obtained registration under Section 9 of the Act, 1968 and therefore, the petitioner No.2 in



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W.P.No.18845/2021 has to be prosecuted. He contends that as an application is now filed before the Magistrate to substitute the person responsible for the affairs of M/s. Greenleaf Technologies. The petition filed by petitioner No.1 may be rejected as when the private complaint was filed, the Director of M/s. Green Leaf Technologies was not arraigned as an accused but now steps are taken to arraign them.

(iii) As regards the contention that only M/s. Green Leaf Technologies is arraigned as an accused and not the Directors and therefore, the proceedings is in violation of Section 33 of the Act, 1968, he contends that in view of Section 319 of Cr.P.C., the Magistrate may take necessary action to proceed against the concerned accused.

8. I have considered the submissions of the learned counsel for the petitioners as well as the learned High Court Government Pleader for the respondent.

9. For the sake of convenience, the relevant provisions of the Act, 1968, are extracted below.

(i) Section 3(k)(iv) of the Act, 1968, reads as follows:-



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"3(k) "misbranded"—*an insecticide shall be deemed to be misbranded—*

(i) to (iii) xxxxx

(iv) if any word, statement or other information required by or under this Act to appear on the label is not displayed thereon in such conspicuous manner as the other words, statements, designs or graphic matter have been displayed on the label and in such terms as to render it likely to be read and understood by any ordinary individual under customary conditions of purchase and use;"

(ii) Section 9 of the Act, 1968 reads as follows:-

"9. Registration of insecticides.—*(1) Any person desiring to import or manufacture any insecticide may apply to the Registration Committee for the registration of such insecticide and there shall be a separate application for each such insecticide:*

Provided that any person engaged in the business of import or manufacture of any insecticide immediately before the commencement of this section shall make an application to the Registration Committee within a period of seventeen months from



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the date of such commencement for the registration of any insecticide which he has been importing or manufacturing before that date:

Provided further that where any person referred to in the preceding proviso fails to make an application under that proviso within the period specified therein, he may make such application at any time thereafter on payment of a penalty of one hundred rupees for every month or part thereof after the expiry of such period for the registration of each such insecticide.

(2) Every application under sub-section (1) shall be made in such form and contain such particulars as may be prescribed.

(3) On receipt of any such application for the registration of an insecticide, the Committee may, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or by the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register on such conditions as may be specified by it and on payment of such fee as may be prescribed, the insecticide, allot a registration number thereto and issue a certificate of registration in token thereof within a



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period of twelve months from the date of receipt of the application:

Provided that the Committee may, if it is unable within the said period to arrive at a decision on the basis of the materials placed before it, extend the period by a further period not exceeding six months:

Provided further that if the Committee is of opinion that the precautions claimed by the applicant as being sufficient to ensure safety to human beings or animals are not such as can be easily observed or that notwithstanding the observance of such precautions the use of the insecticide involves serious risk to human beings or animals, it may refuse to register the insecticide.

(3A) In the case of applications received by it prior to the 31st day of March, 1975, notwithstanding the expiry of the period specified in sub-section (3) for the disposal of such applications, it shall be lawful and shall be deemed always to have been lawful for the Registration Committee to dispose of such applications at any time after such expiry but within a period of one year from the commencement of the Insecticides (Amendment) Act, 1977:



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Provided that nothing contained in this sub-section shall be deemed to make any contravention before the commencement of the Insecticides (Amendment) Act, 1977, of a condition of a certificate of registration granted before such commencement, an offence punishable under this Act.

(3B) Where the Registration Committee is of opinion that the insecticide is being introduced for the first time in India, it may, pending any enquiry, register it provisionally for a period of two years on such conditions as may be specified by it.

(3C) The Registration Committee may, having regard to the efficacy of the insecticide and its safety to human beings and animals, vary the conditions subject to which a certificate of registration has been granted and may for that purpose require the certificate holder by notice in writing to deliver up the certificate to it within such time as may be specified in the notice.

(4) Notwithstanding anything contained in this section, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture the insecticide or engaged in the business of, import or manufacture thereof shall on application and on payment of



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prescribed fee be allotted a registration number and granted a certificate of registration in respect thereof on the same conditions on which the insecticide was originally registered."

(iii) Section 13 of the Act, 1968 reads as follows:-

"13. Grant of licence.—(1) Any person desiring to manufacture or to sell, stock or exhibit for sale or distribute any insecticide or to undertake commercial pest control operations with the use of any insecticide, may make an application to the licensing officer for the grant of a licence:

Provided that any person engaged in the business of manufacturing or selling, stocking or exhibiting for sale or distributing any insecticide immediately before the commencement of this section shall make an application to the licensing officer for the grant of a licence within a period of seventeen months from the date of such commencement:

Provided further that any person engaged in the commercial pest control operations immediately before the commencement of the Insecticides (Amendment) Act, 1977, shall make an application to the licensing officer for the grant of a licence



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within a period of six months from the commencement of the said Act.

(2) Every application under sub-section (1) shall be made in such form and shall contain such particulars as may be prescribed.

(3) On receipt of any such application for the grant of a licence, the licensing officer may grant a licence in such form, on such conditions and on payment of such fee as may be prescribed.

(4) A licence granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fee as may be prescribed:

Provided that where a licence has been granted to any person who has made an application the first proviso or, as the case may be, the second proviso to sub-section (1), that licence shall be deemed to be cancelled in relation to any insecticide, the application for registration whereof has been refused or the registration whereof has been cancelled, under this Act, with effect from the date on which such refusal or cancellation is notified in the Official Gazette.

(5) In prescribing fees for the grant or renewal of licences under this section, different fees may be



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prescribed for the sale or distribution of insecticides for purposes of domestic use and for other purposes."

(iv) Section 29 of the Act, 1968 reads as follows:-

"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*



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(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.*

(2) *Whoever uses an insecticide in contravention of any provision of this Act or any rule made thereunder shall be punishable with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees, or imprisonment for a term which may extend to six months, or with both.*



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(3) Whoever contravenes any of the other provisions of this Act or any rule made thereunder or any condition of a certificate of registration or licence granted thereunder, shall be punishable—

(i) for the first offence, with imprisonment for a term which may extend to one year, or with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees, or with both;

(ii) for the second and a subsequent 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.

(4) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published in such newspapers or in such other manner as the court may direct."

10. In the instant case, the store of M/s. Guru Agro Traders was inspected on 19.08.2019. Bio-fertilizers namely



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Alaska, Insearch, Ro-mite were seized which were purportedly manufactured by M/s. Green Leaf Technologies, Guntur, Andhra Pradesh. The samples of the incriminating insecticide were secured and one of the samples was subject to test at the hands of the Analyst of Insecticides, who purportedly submitted a report stating that the sampled insecticide contained substances which was mentioned in schedule to the Act, 1968. An "insecticide" is defined under Section 3(e) of the Act, 1968 as follows:-

"3(e) "Insecticide" means—

- (i) any substance specified in the Schedule; or*
- (ii) such other substances (including fungicides and weedicides) as the Central Government may, after consultation with the Board, by notification in the Official Gazette, include in the Schedule from time to time; or*
- (iii) any preparation containing any one or more of such substances;"*

11. Therefore, ideally whenever a manufacturer intends to manufacture an insecticide which contains substances



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mentioned in the Schedule to the Act, 1968 and bring it for sale, he must compulsorily register the fertilizers before the appropriate authority, failing this, is an offence punishable under Section 29 of the Act, 1968, referred supra. However, to prosecute a company for offences punishable under Section 29 of the Act, 1968, the procedure contemplated under Section 33 of the Act, 1968, has to be complied and the same is extracted below:-

"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:

Provided that nothing contained in this subsection shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.



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(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section:—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

12. The respondent was therefore required to not only proceed against the manufacturer but also the person responsible for the affairs of the company. In this regard, law is well settled and needs no reiteration. Nonetheless, it is profitable to refer to the following judgments:-

(i) SMS Pharmaceuticals Ltd., vs. Neeta Bhalla [(2005) 8 SCC 89]



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(ii) *K.S. Mehta vs. Morgan Securities [(2025)
7 SCC 615*

(iii) *Standard Chartered Bank vs. Directorate
of Enforcement [(2005) 4 SCC 530*

(iv) *Vikas Rambal and others vs. State of
Madras [2022 SCC OnLine Mad 4822].*

13. As regards a person who stores or keeps such insecticides for sale or exhibits for sale, he has to obtain a licence under Section 13 of the Act, 1968. In the instant case, the petitioner No.2 in W.P.No.18845/2021 has obtained a licence, which is not in dispute. The petitioner in W.P.No.19288/2021 is admittedly not a person responsible for the affairs of M/s. Green Leaf Technologies and therefore an application is filed by the respondent for substitution of the accused No.4 in C.C.No.519/2021 (PCR No.140/2021). Therefore, the prosecution launched against all the petitioners in both these petitions is half-hearted, without application of mind and the Magistrate has also failed to apply his mind before taking cognizance. When there is a fundamental flaw in the process of initiating prosecution, the prosecution stands vitiated and has no legs to stand.



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14. In view of the above, both these petitions are ***allowed.***

15. The prosecution launched by the respondent in C.C.No.519/2021 (arising out of PCR No.140/2021) pending on the file of the Civil Judge and JMFC, Pandavpura, Mandya District and the order dated 20.07.2021 passed by the Magistrate in C.C.No.519/2021 taking cognizance of offence punishable under Sections 3(k), 9, 13 and 29 of the Insecticides Act, 1968, are quashed, in so far as the petitioner (accused No.4) in W.P.No.19288/2021 is concerned.

16. The prosecution launched by the respondent in C.C.No.508/2021 (arising out of PCR No.141/2021) pending on the file of the Civil Judge and JMFC, Pandavpura, Mandya District and the order dated 20.07.2021 passed by the Magistrate in C.C.No.508/2021 taking cognizance of offence punishable under Sections 3(k), 9, 13 and 29 of the Insecticides Act, 1968, are quashed in so far as the petitioners (accused Nos.1 and 2) in W.P.No.18845/2021 are concerned.



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17. In view of disposal of the petitions, pending I.As., if any, do not survive for consideration and the same stand disposed off.

**Sd/-
(R. NATARAJ)
JUDGE**

PMR
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