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**(2014) 07 P&H CK 0130**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CRM-M-13054 and 13055-2013

M.S. Malik

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision:** July 16, 2014

**Acts Referred:**

- Insecticides Act, 1968 - Section 17, 29, 3(k), 31, 33

**Citation:** (2014) 3 RCR(Criminal) 930

**Hon'ble Judges:** Rekha Mittal, J

**Bench:** Single Bench

**Advocate:** Arun Chandra, Advocate for the Appellant; Ajay Kaushik, Advocate for the Respondent

**Final Decision:** Allowed

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### **Judgement**

Rekha Mittal, J.

By way of this order, I shall dispose of aforesaid petitions as identical questions of law and facts are involved, for adjudication. For the sake of convenience, the facts are being taken from CRM-M-13054-2013.

2. Counsel for the petitioner contends that Union of India (respondent) through its authorised representative filed complaint u/s 29 of the Insecticides Act, 1968 for violation of Section 3(k) and 17 of the Act against M/s. Crystal Phosphates Ltd. (hereinafter referred to as "Company"), Sh. Arvind Kumar Tyagi its Director and the petitioner, another Director of the Company. The learned trial Court has summoned the accused to face trial for the aforesaid offences.

3. Counsel for the petitioner contends that the criminal proceedings initiated against the petitioner are unsustainable as the same are barred for want of sanction u/s 31 of the Act. It is submitted that as per Annexure P3 titled "Consent for Prosecution", Sh. A.K. Singh, Director of Agriculture, Haryana accorded permission for launching prosecution against the company and Sh. Arvind Kumar Tyagi, Director and Chief

Chemist-cum-Production Incharge being the responsible person representing the manufacturing company but the sanction order does not make reference to the present petitioner. In support of his contention, he cited various judgments passed by this Court in [S.C. Sharma and Others Vs. State of Punjab and Others](#), K.G. Papu and another Vs. State of Punjab, 1996(1) R.C.R. (Criminal) 795, G.V. Devasahayam Vs. State of Haryana, 2002(2) R.C.R. (Criminal) 793, [K.N. Dwivedi Vs. State of Punjab](#), and [Sant Lal Surekha Vs. State of Punjab](#),

4. Mr. Ajay Kaushik, Advocate representing Union of India has fairly conceded that in the order passed by the Director, Agriculture, Haryana to sanction prosecution against the company and Sh. Arvind Kumar Tyagi, there is no reference to the present petitioner. However, it is submitted that as sanction to prosecute the company was granted on 21.09.2012 (Annexure P3), the petitioner being one of the directors of the company can be prosecuted for the offence committed by the company in view of the provisions of Section 33 of the Act.

5. I have heard counsel for the parties and gone through the case file.

6. The sole question which arises for adjudication is whether the complainant can maintain the prosecution against the petitioner in the absence of sanction to prosecute him.

7. The issue is no longer res integra in view of the judgments passed by various Benches of this Court that sanction to prosecute a company or a firm is not sufficient to prosecute the persons incharge and responsible for the conduct of the business of the company or a partnership firm. Counsel for the respondent has failed to cite any contrary law.

8. As the petitioner was sought to be prosecuted for the offence committed by the company without any sanction to prosecute him, in compliance with provisions of Section 31 of the Act interpreted in the aforesaid judgments, I find force in the contentions of the petitioner that criminal proceedings initiated against him cannot be allowed to continue.

9. For the aforesaid reasons, the petitions are allowed, the criminal complaints filed by the respondent as well as proceedings emanating therefrom are ordered to be quashed, qua the petitioner.