**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 25TH DAY OF MARCH, 2025**

**BEFORE**

**THE HON'BLE MR JUSTICE S RACHAIAH**

**CRIMINAL REVISION PETITION NO. 456 OF 2017**

**C/W**

**CRIMINAL REVISION PETITION NO. 446 OF 2017**

**IN CRL.RP No. 456/2017**

**BETWEEN:**

E. V. RAVIPRAKASH
AGED ABOUT 45 YEARS,
S/O VEERABHADREGOWDA,
M/S SREE VEERABHADRESHWARA GENERAL STORE,
TOWN PANCHAYATH COMPLEX BUILDING,
B.M.ROAD, ALUR, HASSAN – 573213.

…PETITIONER

(BY SRI SUYOG HERALE, ADVOCATE FOR
SRI. SACHIN B. S., ADVOCATE)

**AND:**

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

P. N. BALASUBRAMANYA,
FOOD INSPECTOR
O/O LOCAL (HEALTH) AUTHORITY,
TALUK HEALTH OFFICER ALUR, HASSAN DISTRICT,
REP BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BANGALORE - 560 001.

…RESPONDENT

(BY SRI K. NAGESHWARAPPA,HCGP)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 03.12.2014 IN C.C.NO.451/2008 PASSED BY LEARNED CIVIL JUDGE AND JMFC, ALUR, HASSAN DISTRICT AND SET ASIDE THE ORDER DATED 06.01.2017 PASSED BY THE LEARNED III ADDITIONAL DISTRICT AND SESSIONS JUDGE AT HASSAN IN CRL.A.NO.186/2014. AND ETC

**IN CRL.RP NO. 446/2017**

**BETWEEN:**

M/S TUTICORIN SALTS AND MARINE CHEMICALS LTD
HARBOUR LINK,
ROAD, TUTICORIN-628001
REP BY B.R.MYLAR RAO,
S/O B. H. RAJASHEKARIAH,
6TH CROSS, 60 FEET ROAD,
VINOBHANAGAR, 2ND STAGE,
SHIMOGGA-577204.

...PETITIONER

(BY SRI SUYOG HERALE, ADVOCATE FOR
SRI. NISHANTH S. K ., ADVOCATE)

**AND:**

P. N. BALASUBRAMANYA
FOOD INSPECTOR
O/O LOCAL (HEALTH)
AUTHORITY,
TALUK HEALTH OFFICER,
ALUR, HASSAN DISTRICT,
REP BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560001

...RESPONDENT

(BY SRI K. NAGESHWARAPPA,HCGP)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 03.12.2014 IN CC.NO.451/2008 PASSED BY LEARNED CIVIL JUDGE AND JMFC ALUR, HASSAN DISTRICT AND SET ASIDE THE ORDER DATED 06.01.2017 PASSED BY THE LEARNED III ADDITIONAL DISTRICT AND SESSIONS JUDGE AT HASSAN IN CRL.APPEAL NO.186/2014. AND ETC.

THESE CRIMINAL REVISION PETITIONS HAVING BEEN HEARD AND RESERVED ON 17.02.2025 COMING ON FOR PRONOUNCEMENT OF ORDER, THROUGH VIDEO CONFERENCING, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S RACHAIAH

## CAV ORDER

1. These two Criminal Revision Petitions are filed by the respective petitioners, being aggrieved by the judgment of conviction and order on sentence dated 03.12.2014 in C.C.No.451/2008 on the file of the Court of Civil Judge and JMFC and its confirmation judgment and order dated 06.01.2017 in Crl.A.No. 186/2014 on the file of the Court of III Addl. District and Sessions Judge, Hassan, seeking to set aside the concurrent findings recorded by the Courts below, wherein the petitioners / accused Nos. 1 and 2 are convicted for the offences punishable under Sections 7(1), 16(a)(i) of Section 16 of Prevention of Food Adulteration Act (for short, 'PFA', Act), 1954 and they have been sentenced to undergo simple imprisonment for one year and also sentenced to pay fine of Rs.10,000/- each. In default of payment of the same, they have been further ordered to be undergo simple imprisonment for one month.

2. The ranks of the parties would be considered henceforth as per their rankings in the Trial Court for convenience.

**Brief facts of the case:**

3. It is the case of the prosecution that on 18.06.2008, the complainant/P.W.1 who was working as a Food Inspector of the Alur Health Office, Alur Range, Hassan District had visited the shop of accused No.1 viz., "M/s. Sree Veerabhadreshwara General Store" and found that the accused had stored adulterated Solar White Gold Iodized Salt. He is stated to have purchased 500 gms of three packets of said salt for the purpose of subjecting the said salt for chemical analysis. Further, he noticed that the said salt has been packed and manufactured by Tuticorin Salt and Marine Chemicals Limited. P.W.1 while purchasing the said salt has issued a notice in Form No.6 regarding intimation of sending the salt to the public analyst for chemical analysis. Thereafter P.W.1 has packed the said salt and sealed them in the presence of accused No.1 and P.W.4. Thereafter, he prepared mahazar as per Ex.P.7 and the sample to the Divisional Analyst, Mysore in a sealed cover along with a copy of Form No.7. On 02.08.2008, he received certificate from Regional Office. The said certificate would indicate that

the said salt was adulterated. Therefore, he registered a case as per Sections 7(i), 16(a)(i) of the Prevention of Food Adulteration Act, 1954. After filing the complaint, the Magistrate took cognizance.

4. The prosecution examined five witnesses i.e., P.Ws.1 to 5 and got marked twenty-seven documents i.e., Exs.P.1 to 27, and opined that the accused have committed the offences as stated supra and recorded the conviction. Being aggrieved by the same, the petitioners have preferred the appeal before the first appellate Court, however, the first appellate Court confirmed the judgment rendered by the Trial Court and dismissed the appeal filed by the petitioners. Hence, the petitioners are before this Court seeking to set aside the concurrent findings rendered by the Courts below.

5. Heard Sri.Suyog Herale, learned counsel appearing on behalf of Sri.Sachin B.S and Sri.Nishanth S.K learned counsel for the petitioner and Sri.K.Nageshwarappa, learned High Court Government Pleader for the respondent – State in both cases.

6. It is the submission of the learned counsel for the petitioners that the prosecution has relied on the evidence of P.Ws.1 to 5, they are the official witnesses and also the interested witnesses. When the evidence of interested witnesses are to be analyzed, their evidence has to be scrutinized properly. However, both the Courts have not analyzed the evidence properly. Consequently, the impugned judgments have been passed which are required to be set aside.

7. It is further submitted that the prosecution has failed to prove the mandatory requirement stipulated under Section 13(2) of the Act and further, it has also violated Section 10 (7) of the Act. In addition to that, the prosecution has not examined any independent witnesses. Despite several *lacunae* in the evidence of prosecution, both the Courts have committed errors in recording the conviction. Therefore, the said conviction are liable to be set aside. Making such submissions, the learned counsel for the petitioners prays to allow the petition.

8. Per contra, the learned High Court Government Pleader vehemently justified the concurrent findings and submitted that the evidence of official witnesses cannot be discarded on the ground that they are the interested witnesses. Though the investigation team cited the independent witnesses for the purpose of conducting the search and seizure of the adulterated salt, they have not supported the case.

9. It is further submitted that the conviction can also be recorded even on the evidence of the official witnesses, if the evidence of the official witnesses inspire the confidence of the Court. It is not in dispute that the accused was selling the adulterated salt in the shop and it is not in dispute that the FSL report indicated that it is a adulterated salt. It is also not disputed that the said salt was being manufactured by the company, Tuticorin Salt and Marine Chemicals Limited. Therefore, the findings of the Courts below in recording the conviction is proper and appropriate. Having said thus, the learned High Court Government Pleader prays to dismiss the petitions.

10. Having heard learned counsel for the respective parties and also perused the findings of the Courts below, it is relevant to refer the provisions under Section 13(2) and 10(7) of the PFA, Act for the purpose of clarifying the provisions and its compliance. Section 13(2) reads as under:

> ***"13. Report of Public analyst.—***
>
> *(2) On receipt of the report of the result of the analysis under sub-section (1) to the effect that the article of food is adulterated, the Local (Health) Authority shall, after the institution of prosecution against the person from whom the sample of the article of food was taken and the person , if any, whose name, address and other particulars have been disclosed under section 14A, forward, in such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be, informing such person or persons that if it is so desired, either or both of them may make an application to the court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health)*

*Authority analysed by the Central Food Laboratory.*

11. On reading of the aforesaid provisions, it makes it clear that the copy of the certificate of the analysis should be supplied to the accused for the reason that he should aware of the contents of the said certificate. As per the said provisions, it is mandatory in nature and that is to be followed by the officer and conducted search and seizure of the adulterated item. Similarly, it is relevant to refer 10(7) of the Act which reads as under:

*"10. Powers of Food Inspectors.—*

*(7) Where the food inspector take any action under clause (a) of sub-section (1) sub-section (2), sub-section (4), or sub-section (6), he shall 8 [call one or more persons to be present at the time when such action is taken and take his or their signatures]*

.

12. As per the said provisions, when the Food Inspector wants to check on the particular shop, he shall ensure that one or more persons of the locality to be present at that time conducting search and seizure.

13. Having considered the aforesaid provisions, now, it is relevant to refer the evidence of all the witnesses in brief for the purpose of arriving at conclusion as to whether any irregularities committed in appreciating the evidence and also in compliance of the law.

14. P.W.1 was working as a Food inspector of the said division. He is stated to have conducted raid on the shop of accused No.1. According to him, he and C.W.3 who is examined as P.W.4 had visited the shop of accused No.1 and stated to have purchased Solar White Gold Iodized Salt. According to him, he complied the requirements by giving Form No.6 to the accused. However, in the cross-examination, he admitted that he did not invite the local persons to be the witnesses for the said search and seizure. When the Act itself stipulates that calling the locals as witnesses to the search and seizure is mandatory, non-compliance of said provisions would amounts not only irregularity but it is illegality, that cannot be cured. Moreover, the evidence of official witnesses shrouded with doubt as they are the interested witnesses to the case. In such circumstances, the Courts

below ought not to have considered the evidence of the interested witnesses.

15. It is also noted here that the Tuticorin Salt and Marine Chemicals Limited is a limited company and the company should have also been made as one of the accused. Non arraying the company as one of the accused to the proceedings is held to be illegal and the entire proceedings ought to have been vitiated. However, both the Courts failed to deal with the said aspects in a right perspective and committed error in rendering the conviction. Therefore, the conviction passed by the Courts below is held to be illegal and the same is liable to be set aside.

16. In the light of the aforesaid discussions, I proceed to pass the following:

**ORDER**

i) The Criminal Revision Petitions are allowed.

ii) The judgment of conviction and order on sentence dated 03.12.2014 passed in C.C.No.451/2008 by the Court of the Civil Judge and J.M.F.C., Alur and the judgment

and order dated 06.01.2017 passed in Crl.A.No.186/2014 by the Court of the III Additional District and Sessions Judge, Hassan, are set aside.

iii) The petitioners are acquitted for the offences punishable under Sections 7(1), 16(a)(i) of Section 16 of Prevention of Food Adulteration Act.

iv) Bail bonds executed, if any, stand cancelled.

**Sd/-**
**(S RACHAIAH)**
**JUDGE**

JS
List No.: 19 Sl No.: 6