IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 200294 OF 2025

(482(Cr.PC)/528(BNSS))

BETWEEN:

VINOD S/O GOVINDRAO,
AGE: 36 YEARS, OCC: MANAGING DIRECTOR,
M/S ZUARI AGRO CHEMICALS LIMITED,
JUARINAGAR GOA-403726.

...PETITIONER
(BY SRI MANJUNATH SHIVANNA, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
DEPARTMENT OF AGRICULTURE,
ASSISTANT DIRECTOR OF AGRICULTURE INDI,
REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-560001.

...RESPONDENT
(BY VEERANAGOUDA MALIPATIL, HCGP)

Digitally signed by SHIVAKUMAR HIREMATH
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S.482 OF CR.P.C. (OLD), U/SEC. 528 OF BNSS (NEW), PRAYING TO EXERCISE INHERENT POWERS U/SEC. 528 OF BNSS, EXAMINE THE RECORDS AND QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.370/2017 (PRIVATE COMPLAINT NO.07/2017) FOR THE OFFENCE U/SEC. 3 AND 7 OF ESSENTIAL

COMMODITIES ACT 1955, PENDING BEFORE THE SENIOR CIVIL JUDGE AND JMFC INDI, AGAINST THE PETITIONER.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

This petition under Section 482 of Cr.P.C. is filed with a prayer to quash the entire proceedings in C.C.No.370/2017, arising out of PCR No.7/2017, pending before the Court of Senior Civil Judge and JMFC at Indi, registered for the offences punishable under Sections 3 & 7 of Essential Commodities Act, 1955.

2. Heard the learned Counsel for the parties.

3. Learned Counsel for the petitioner submits that there is no compliance of Section 10 of the Essential Commodities Act, in the present case and therefore, proceedings as against the petitioner who is

the Managing Director of the Company in the absence of the Company being arrayed as a party to the impugned criminal proceedings cannot be sustained.

4. Learned HCGP who is directed to appear on behalf of the respondent, has opposed the petition, however, he does not dispute that Company has not been arrayed as a party to the impugned criminal proceedings.

5. Section 10 of the Essential Commodities Act, 1955, reads as follows:

> *"Section 10-Offences by companies.—(1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and 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 contravention and shall be liable to be proceeded against and punished accordingly:*
>
> *Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.*

> *(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 purposes 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."*

6. Petitioner herein is being held vicariously liable for the Act of the Company and therefore, in the absence of the Company being arrayed as a party, the petitioner alone cannot be prosecuted for the alleged offences. Therefore, the entire proceedings gets vitiated and continuation of the said proceedings would amount to abuse of process of law. According the following order:

7. The criminal petition is allowed. The entire proceedings in C.C.No.370/2017, arising out of PCR No.7/2017, pending before the Court of Senior Civil Judge and JMFC at Indi, registered for offenses punishable under Sections 3 & 7 of Essential Commodities Act, 1955, is here by quashed.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

TMP
List No.: 1 Sl No.: 31
CT:PK