IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 16TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL PETITION NO. 200650 OF 2025

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

BETWEEN:

1. SRI SHARANGOUDA NINGANAGOUDA BIRADAR,
AGE:40 YEARS, OCC: M/S PRAGATI FERTILIZER,
GOLAGERI, TQ. SINDAGI,
DIST. VIJAYAPURA-586128.

2. SRI. BALESHWAR P. TOMAR,
M/S HELIOCON AGRO CHEMICAL LTD.
PLOT NO.222,
COTTON MARKET, NEHRU GUNJ,
KALABURAGI-585104.

...PETITIONERS

(BY Ms. VAISHNAVI MANGANE, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
DEPARTMENT OF AGRICULTURE,
ASSISTANT DIRECTOR OF AGRICULTURE AND
INSPECTOR OF FERTILIZER,
REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585107.

...RESPONDENT

(BY SRI JAMADAR SHAHABUDDIN, HCGP)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/SEC. 528 OF BNSS,2023 PRAYING TO EXERCISE INHERENT POWERS U/SEC. 528 OF BNSS, 2023 EXAMINE THE RECORDS AND QUASH THE PROCEEDINGS IN C.C.NO.1371/2024 FOR THE OFFENCES PUNISHABLE UNDER RULE 19(a) AND (b) OF FERTILIZER CONTROL ORDER 1985, R/W ESSENTIAL COMMODITIES ACT 1955, PENDING BEFORE THE SENIOR CIVIL JUDGE AND JMFC COURT AT SINDAGI, AGAINST THE PETITIONERS.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S RACHAIAH)

Though the matter is listed for admission, with the consent of learned counsel for the parties, the same is taken up for final disposal.

2. The petitioners who are accused Nos.1 and 2 have approached this Court seeking to quash the proceedings in C.C.No.1371/2024 pending on the file of the Senior Civil Judge and JMFC, Sindagi, for the offences punishable under Rule 19(a) and (b) of Fertilizer Control Order, 1985 r/w Essential Commodities Act, 1955.

3. Factual matrix of the case:

As per the averments of the complaint, accused No.1 is the owner and proprietor of M/s.Pragati Fertilizer, doing business of selling fertilizer in Golageri village, Sindagi Taluk. Accused No.1 is said to have sold fertilizer namely, NPK 17:17:17. The complainant visited the shop of the accused No.1, inspected the said shop and found that NPK 17:17:17 fertilizer was being sold in the said shop. The sample of the said fertilizer was drawn and sent for laboratory. Thereafter, he received the report from the laboratory stating that the said fertilizer was of substandard quality. Therefore, a complaint came to be registered before the learned Magistrate. The learned Magistrate took cognizance and issued summons to the accused and the proceedings are pending against the petitioners. Being aggrieved by the same, the petitioners have approached this Court seeking to quash the proceedings.

4. Heard Ms.Vaishnavi Mangane, learned counsel for the petitioners and Sri.Jamadar Shahabuddin, learned High Court Government Pleader for the respondent-State.

5. It is the submission of the learned counsel for the petitioner that the fertilizer of which the complainant found that it is of substandard quality after obtaining report from the laboratory was manufactured by the company, namely, M/s.Heliocon Agro Chemical Limited, Kalaburagi. The said company has not been arrayed as one of the accused which is essential to proceed with the case in accordance with the law.

6. The learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in the case of ***State of Madras vs. C.V.Parekh and another*** reported in ***AIR 1970(3) SCC 491*** and submitted that not making the company as one of the accused would be fatal to the case. Hence, the order of taking cognizance passed by the learned Magistrate has to be set aside. Making such submissions, he prays to allow the petition.

7. *Per contra*, learned High Court Government Pleader vehemently submitted that not making the company as one of the accused itself does not take away the case of the prosecution. It is a mere irregularity that can be cured at a later stage and on that ground alone, the entire proceedings need not be quashed. Making such submissions, he prays to reject the petition.

8. Having heard the learned counsel for the respective parties and also perused the averments of the complaint, it appears from the records that the complainant visited the shop of accused No.1, inspected the said shop on 27.07.2020. During the inspection, it was found that accused No.1 was selling fertilizer, namely, NPK 17:17:17 which was considered as substandard fertilizer at the later stage. Though, the said substandard brand fertilizer said to be manufactured by the company, the said company has not been arraigned as one of the accused which is considered as illegal. In this context, it is

necessary to refer Section 10(1) of the Essential Commodities Act 1955, which reads as under:

> ***"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:"*

9. Reading of the above said provision makes it clear that if an offence is committed by the company, the company has to be arrayed as one of the accused. In my considered opinion, without arraying the company as one of the accused, proceeding against the other accused would not yield any result. Therefore, it is appropriate to quash the proceedings against the rest of the accused.

10. Accordingly, I proceed to pass the following:

ORDER

The Criminal Petition is ***allowed***.

The entire proceedings in C.C.No.1371/2024 pending on the file of Senior Civil Judge and JMFC Court, Sindagi, as against the petitioners are quashed.

Sd/-
(S RACHAIAH)
JUDGE

NB
List No.: 1 Sl No.: 13
CT:PK