HC-KAR

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 01ST DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL PETITION No.201005 OF 2025

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

BETWEEN:

INDIAN AGRO BIO TECHNOLOGY,
PLOT NO E 25/8, CHINCHOLI MIDC,
SOLAPUR-413255, (MAHARASHTRA STATE),
BY ITS MANAGER,
SRI RAVICHANDRA KONNUR S/O SHIVASHANKAR,
AGE:57 YEARS,
OCC: MANAGER CUM SALES OFFICERS,
R/O. MARUTI MANDIR JAVAL, 17, AMBIKA NAGAR,
AKKALKOT ROAD, SOLAPUR MAHARASHTRA-413006.

...PETITIONER

(BY SRI. ARUNKUMAR AMARGUNDAPPA, ADVOCATE)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

AND:

THE STATE OF KARNATAKA,
DEPARTMENT OF AGRICULTURE,
INSPECTOR OF FERTILIZER CUM ASSISTANT
DIRECTOR OF AGRICULTURE, AFZALPUR,
TQ. AFZALPUR, DIST. KALABURAGI-585301,
REPRESENTED BY,
ADDL. STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585102

...RESPONDENT

(BY SRI. VEERANAGOUDA MALIPATIL, HCGP)

THIS CRL.P IS FILED UNDER SECTION 528 OF BNSS,2023 PRAYING TO, ALLOW THIS PETITION AND QUASH THE ORDER OF TAKING COGNIZANCE AND ISSUANCE OF PROCESS DATED 12.10.2023 BY THE CIVIL JUDGE AND JMFC AFAZALPUR IN C.C NO.765/2023 AGAINST THE PETITIONER/ ACCUSED NO. 2 FOR THE COMMISSION OF ALLEGED OFFENCES PUNISHABLE U/SEC 3(2) AND 7 (1) a,(II) OF ESSENTIAL COMMODITIES ACT- 1955 FOR VIOLATION OF CLAUSE 19 (a) OF FERTILIZER CONTROL ORDER 1985 BASED ON A PRIVATE COMPLAINT OF RESPONDENT IN PC NO.11/2023 CONSEQUENTLY DISMISS THE PRIVATE COMPLAINT IN PC NO. 11/2023 ON THE FILE OF CIVIL JUDGE AND JMFC, AFAZALPUR IN OS FAR AS IT CONCERN TO PETITIONER ACCUSED NO.2 AND TO PASS ANY OTHER APPROPRIATE ORDERS AS DEEM FIT IN THE CIRCUMSTANCES OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE V SRISHANANDA)

Heard Sri Arunkumar Amargundappa, learned counsel for the petitioner and Sri Veeranagouda Malipatil, learned High Court Government Pleader for the respondent.

2. The present petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita-2023, with the following prayer:

"Therefore, it is most humbly prayed that this Hon'ble Court be pleased to allow this petition and quash the order of taking cognizance and issuance of process dated 12.10.2023 by the Civil Judge and JMFC, Afzalpur, in C.C.No.765/2023 against the petitioner/ accused No.2, for the commission of alleged offences punishable under Sections 3(2) and 7(1)(a)(ii) of Essential Commodities Act, 1955 for violation of clause 19(a) of Fertilizer Control Order, 1985, based on a private complaint of respondent in P.C.No.11/2023, consequently dismiss the private complaint in P.C.No.11/2023, on the file of the Civil Judge and JMFC, Afzalpur, insofar as it concerns to petitioner-accused No.2 and to pass any other appropriate orders as deem fit in the circumstances of the case, in the interest of justice."

3. Facts of the case in brief for disposal of the present petition is as under:

The Assistant Director of Agriculture cum Fertilizer Inspector, Afzalpur, lodged a private complaint against the petitioner herein and another person by name Sri Basavaraj alleging violation of Fertilizer Control Order resulting in offence punishable under the provisions of Essential Commodities Act, 1955.

4. Admittedly, petitioner is resident of Solapur. Therefore, before taking cognizance, learned Trial Magistrate was bound to hold an enquiry under Section 202 of the Bharatiya Nagarik Suraksha Sanhita-2023.

5. Without following the said procedure, learned Trial Magistrate, not only took cognizance, but also directed the office to register a criminal complaint against the petitioner. Said action on the part of learned Trial Magistrate cannot be countenanced in law.

6. Accordingly, a case is made out to quash the order taking cognizance, registering the criminal case and to remit the matter to the Trial Court for fresh disposal from the stage of taking cognizance.

7. Accordingly, the following:

ORDER

(i) Criminal Petition is ***allowed***.

(ii) The impugned Order dated 12.10.2023 passed in C.C.No.765/2023 on the file of the Civil Judge and JMFC, Afzalpur, taking cognizance and registering criminal case is hereby set-aside.

(iii) Matter is remitted to the Trial Court for fresh disposal in accordance with law, after following the required procedure under Section 202 of the Bharatiya Nagarik Suraksha Sanhita-2023, and also to consider who is responsible person for the accused No.2 as accused No.2 is not legal person, in accordance with law.

Sd/-
(V SRISHANANDA)
JUDGE

kcm
List No.: 1 Sl No.: 37
CT:PK