NC: 2025:KHC-K:3591
CRL.P No. 201047 of 2025

HC-KAR

**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 2ND DAY OF JULY, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE V. SRISHANANDA**

**CRIMINAL PETITION NO.201047 OF 2025**

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

**BETWEEN:**

MADHUKAR S/O VEERSHETTY BIRADAR,
AGE: 42 YEARS, OCC: BUSINESS,
R/O. BAGDAL VILLAGE,
TQ. & DIST. BIDAR,
NOW RESIDING AT
REVANSIDDESHWAR COLONY,
CHITTAGUPPA TOWN,
TQ. CHITTAGUPPA,
DIST. BIDAR-585414.

...PETITIONER

(BY KUM. VAISHNAVI MANGANE, ADVOCATE, FOR
SRI AVINASH A. UPLAONKAR, ADVOCATE)

**AND:**

THE STATE,
THROUGH KAMALAPUR POLICE STATION,

Digitally signed by SUMITRA SHERIGAR
Location: HIGH COURT OF KARNATAKA

DIST. KALABURAGI,
NOW REPRESENTED BY
ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585107.

…RESPONDENT

(BY SRI JAMADAR SHAHABUDDIN, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BNSS, PRAYING EXAMINE THE RECORDS AND QUASH THE PROCEEDINGS IN C.C. NO.14588/2022 (CRIME NO.112/2021 OF KAMALAPUR POLICE STATION, DIST. KALABURAGI) FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 3 AND 7 OF ESSENTIAL COMMODITIES ACT, 1955, PENDING BEFORE THE CIVIL JUDGE AND JMFC COURT KALABURAGI, AGAINST THE PETITIONER.

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)

1. Heard learned counsel Kum. Vaishnavi Mangane on behalf of learned counsel Sri Avinash A. Uplanokar, for the petitioner and learned High Court Government Pleader Sri Jamadar Shahabuddin for the respondent-State.

2. This petition is filed under Section 528 of BNSS, praying to quash the proceedings in C.C. No.14588/2022 pending before the Civil Judge and JMFC Court, Kalaburagi, registered in Crime No.112/2021 of Kamalapur Police Station for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955,.

3. Facts in brief, which are utmost necessary for disposal of the present petition are as under:

3.1 Sri Bhimaray Patil, PSI, Kamalapur Police Station, lodged a report stating that when he was in patrolling duty along with others he noticed the EICHER goods mini lorry bearing No.KA-32/D-3028 and on verification of the said mini lorry, they found rice being transported which is meant for public distribution system.

3.2 On enquiry, the driver of the lorry has stated that the same is belonging to Madhukar Biradar, the second accused, who is the petitioner in this petition and

there were 21 quintals of rice, worth Rs.63,000/- and the same was seized under panchnama.

3.3 Thereafter, a case came to be registered for the offences under Sections 3 and 7 of the Essential Commodities Act in Crime No.112/2021 on 29.12.2021 and after thorough investigation charge-sheet came to be filed.

4. Learned Trial Magistrate not noticing that case cannot be registered on the complaint of a Police official, took cognizance and had summoned the accused persons. Accused persons appeared before the Trial Magistrate and obtained bail. As such, matter is pending before the Trial Magistrate.

5. In the petition it is contended that under the provisions of Karnataka Essential Commodities (Public Distribution System) Control Order, 1992, a Police official is not entitled to seize any food grains and it is the

Authorized Officers, who are in the rank of Food Inspector or above, are entitled to seize the essential commodities.

6. Therefore, learned counsel for the petitioner contended that the very seizure of 21 quintals of the rice from the EISHER mini lorry bearing No. KA-32/D-3028 on 29.12.2021 under the Mahazar, which is the basis for registering the case, is without jurisdiction and hence, sought for allowing the petition.

7. *Per contra*, learned High Court Government Pleader Sri Jamadar Shahabuddin supports the registration of the case against the petitioner, investigation and the order taking cognizance.

8. Having heard the arguments on both sides, this Court perused the material on record meticulously. On such perusal of the material on record, it is crystal clear that when Sri Bhimaray Patil is the P.S.I., was not authorized to seize the rice which is allegedly meant for public distribution system.

9. The coordinate benches of this Court were confronted with similar situation in Crl.P.Nos. 201430/2018 and 4233/2016 referring paragraph 19 of the Karnataka Essential Commodities (Public Distribution System) Control Order, 1992, (hereinafter referred to as 'said order' for short), and it has been held that such an authority does not vest with the Police Authority.

10. For ready reference, paragraph No.19 of said order is culled out hereunder:

> ***"19. Powers of Entry, Search, Seizure, etc.:***
>
> *1) The Director of Food and Civil Supplies, the Joint Directors of Food and Civil Supplies, or the Tahsildar of a taluk, and Authorized Authority or any other officer of the Department of Food and Civil Supplies not below the rank of a Food Inspector within their jurisdiction may with such assistance, if any, as he thinks fit and if he has reason to believe that there is or has been any contravention of the provisions of this order or with a view to securing compliance with this order or to satisfying himself that there is or has been any contravention of the order:*

*(a) require the owner, occupier or any other person in charge of any place, premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order or of the conditions of any authorization issued there under has been, is being or is about to be committed, to produce any books, accounts or other documents showing transactions relating to such contraventions:*

*(b) enter, inspect or break open and search any place or premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order or of the conditions of any authorization issued there under has been, is being or is about to be committed;*

*(c) take or cause to be taken extracts from or copies of any documents showing transactions relating to such contraventions which are produced before him;*

*(d) search, seize and remove books, accounts and other documents and stocks of essential commodity and the animals vehicles, vessels or other conveyance used in carrying the said essential commodities in contravention of the provisions of this order, or of the conditions of the authorization issued there under and thereafter take or authorize*

*the taking of all measures necessary for securing the production of stocks, of essential commodity and the animals, vehicles, vessels or other conveyance so seized, in a Court for their safe custody pending such production.*

*(2) The provisions of Section 100 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to search and seizure shall so far may be, apply to searches and seizures under this clause."*

11. In the case on hand, the very registration of the case is based on the Seizure Mahazar. Further, conducting the investigation, filing charge-sheet stood vitiated for want of required legal authority in the head of the raid party, namely, Bhimaray Patil, the PSI of Kamalapura Police Station.

12. The said aspect of the matter is not taken note of by the learned Trial Judge while taking cognizance and proceeding with a criminal case.

13. Hence, the following:

ORDER

i. The petition is allowed.

ii. Pending proceedings in C.C. No.14588/2022 is hereby quashed.

In view of disposal of main matter, I.A. No.1/2025 also stands disposed of.

**Sd/-**
**(V. SRISHANANDA)**
**JUDGE**

SBS
List No.: 1 Sl No.: 50
CT:PK