NC: 2025:KHC-K:1790
CRL.P No. 201179 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL PETITION NO.201179 OF 2024

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

BETWEEN:

NAGSHETTY @ NAGARAJ
S/O SHIVARAJ SAJJANSHETTY,
AGE:39 YEARS, OCC: BUSINESS,
R/O. KHATAK CHINCHOLI.
TQ. BHALKI, DIST. BIDAR-585328.

…PETITIONER

(BY SRI AMEERAHAMAJA ABDULKADAR GUNNAPURA,
ADVOCATE)

AND:

1. THE STATE OF KARNATAKA THROUGH,
BASAVAKALYAN RURAL POLICE STATION BIDAR
DIST. REPRESENTED BY
THE ADDL. STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
KALABURAGI-585102.

2. SRI RAVI SURYAVAMSHI
FOOD INSPECTOR TAHASIL OFFICE,
BASAVAKALYAN-585327.

…RESPONDENTS

(BY SRI JAMADAR SHAHABUDDIN, HCGP FOR R1;
R2 SERVED)

THIS CRL.P IS U/SEC. 528 OF BNSS,2023 PRAYING TO ALLOW THE PRESENT CRIMINAL PETITIONER AND ALSO

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

QUASH THE ENTIRE PROCEEDING IN CRIME NO.92/2019 FILED AT BASAVAKALYAN RURAL POLICE STATION, BIDAR DIST. AND SUBMITTED THE CHARGE SHEET IN C.C NO.193/2020 AGAINST PETITIONER. FOR THE OFFENCE PUNISHABLE U/SEC. 3 AND 7 ESSENTIAL COMMODITIES ACT 1955. THE SAID CASE TRIALED AT HON'BLE SENIOR CIVIL JUDGE AND JMFC COURT BASAVAKALYAN.

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)

This petition is filed by accused No.2 seeking to quash the entire proceedings in Crime No.92/2019 registered by Basavakalyan Rural police station, Bidar for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 (for short 'E.C.Act') and charge sheet in C.C.No.192/2020, pending on the file of Senior Civil Judge and JMFC, Basavakalyan.

2. It is the case of the prosecution that accused No.1 being a lorry driver, was carrying rice in his lorry. The complainant being a Food Inspector and his staff investigated the said lorry, which was parked near a

Dhabha situated in NH-65 and found that there were 600 plastic bags and each bag contained 50 kg of rice, worth about Rs.9 lakhs and the lorry worth about Rs.20 lakhs. Thereafter, they seized the rice and the lorry. On the voluntary statement of accused No.1, the name of the petitioner has been arrayed as accused No.2 in this case.

3. Heard the learned counsel for the petitioner Sri Ameerahamaja Abdulkar Gunnapura for the petitioner and learned High Court Government Pleader Sri Jamadar Shahabuddin for respondent No.1. Respondent No.2 is served and unrepresented.

4. It is the submission of learned counsel for the petitioner that the petitioner has been arrayed as accused No.2 on the voluntary statement of accused No.1. However, the role of the petitioner/accused No.2 has not been mentioned in the charge sheet. At this stage, even if the petitioner is subjected for trial, the conviction of the petitioner, who is arrayed as accused No.2 is very bleak. Therefore, the impugned proceedings as against the

petitioner may be quashed. Making such submissions, he prays to allow the petition.

5. *Per contra*, learned High Court Government Pleader for respondent No.1 vehemently submitted that the voluntary statement of accused No.1 clearly goes to show that the PDS rice was being transported to Gujarat from the shop of the petitioner/accused No.2. Therefore, at this stage, it is premature to quash the impugned proceedings. Making such submissions, he prays to reject the petition.

6. Having heard the learned counsel for the respective parties and having gone through the averments of the charge sheet and also other materials available on record, it appears that accused No.1 was transporting the rice and it was seized by the complainant and his staff. The sample of the rice was sent for FSL to find out as to whether it was meant for distribution under the PDS scheme or not.

7. Be that as it may, the Investigating Officer registered a case against this petitioner on the basis of the voluntary statement of accused No.1. The accused No.1 in his voluntary statement stated that, he came from Gujarat in his lorry and the accused No.2 took him to his godown and loaded the lorry with the said rice and he was proceeding towards Gujarat. In the midst of the journey, the lorry and rice were seized by the complainant and his staff. However, the respondent – police having not conducted any spot panchanama, where the alleged rice was loaded. Even assuming that 1 kg of rice was seized from the shop of the petitioner as per the seizure panchanama, that itself is not sufficient to array him as accused No.2 in this case.

8. Be that as it may, on over all reading of the averments of the charge sheet, the prosecution has not made out a case against the petitioner, except the voluntary statement of accused No.1. Therefore, it is not appropriate to proceed against the petitioner with the

impugned proceedings. In the light of the observations made above, I proceed to pass the following:

ORDER

(i) The Criminal Petition is allowed.

(ii) The entire proceedings in Crime No.92/2019 registered by Basavakalyan Rural police station, Bidar for the offences punishable under Sections 3 and 7 of the E.C.Act and charge sheet in C.C.No.192/2020, pending on the file of Senior Civil Judge and JMFC, Basavakalyan, as against the petitioner stands quashed.

Sd/-
(S RACHAIAH)
JUDGE

SRT
List No.: 1 Sl No.: 51
CT:PK