



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH
DATED THIS THE 7TH DAY OF JANUARY, 2025
BEFORE
THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY
CRIMINAL PETITION NO. 201260 OF 2024
(482(Cr.PC)/528(BNSS))**

BETWEEN:

VASANT S/O BABU VANTAMURE,
AGE: 54 YEARS, OCC: MANAGING DIRECTOR,
GHATAPRABHA FERTILIZERS PVT LTD,
R.S.NO.249/1, NADIKURALI,
TQ. RAIBAG, DIST. BELGAUM – 591317,
R/O. WARD NO.2, SUGAR FACTORY ROAD,
RAIBAG RURAL, POST. RAIBAG,
DIST. BELGUM-591317.

...PETITIONER

(BY SRI AVINASH A. UPLAONKAR, AND
SRI RAVI K. ANOOR, ADVOCATES)

AND:

THE STATE OF KARNATAKA
DEPARTMENT OF AGRICULTURE,
AGRICULTURE OFFICER AND
FERTILIZER INSPECTOR,
RAITA SAMPARKA KENDRA SINDAGI,
REPRESENTED BY ADDL. SPP
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-560001

...RESPONDENT

(BY SMT. MAYA T.R., HCGP)

Digitally signed by
SHILPA R
TENIHALLI
Location: HIGH
COURT OF
KARNATAKA



THIS CRL.P FILED U/S.482 OF CR.P.C(OLD)/ U/SEC. 528 OF BNSS ACT (NEW) PRAYING TO EXERCISE INHERENT POWERS U/SEC. 482 CR.P.C EXAMINE THE RECORDS AND QUASH THE PROCEEDINGS IN CC NO. 520/2022 FOR THE OFFENCE U/S. 3 AND 7 OF ESSENTIAL COMMODITIES ACT 1955 PENDING BEFORE THE CIVIL JUDGE AND JMFC COURT AT SINDAGI, AGAINST THE PETITIONER/ ACCUSED NO.2.

THIS PETITION, COMING ON FOR ADMISSION, 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)

Accused No.2 in C.C.No.520/2022 pending before the Court of Civil Judge and JMFC Court, Sindagi, registered for the offence punishable under Section 7 of the Essential Commodities Act, 1955, (for short, 'the Act, 1955') is before this Court under Section 482 of Code of Criminal Procedure, with a prayer to quash the entire proceedings in the aforesaid case, as against him.

2. Heard the learned counsel for the parties.

3. A private complaint was filed before the trial Court by the jurisdictional Agricultural Officer and Fertilizer



Inspector, Sindagi, wherein, the petitioner herein is arrayed as respondent No.2. The allegations in the complaint are that, on 02.07.2016, the complainant had visited the shop of the company known as M/s. Ghataprabha Fertilizers Private Limited, Raibag, and had found that, the said shop did not have requisite license as provided under clause 19 of the Fertilizer Control Order, 1985 and Section 7 of the Essential Commodities Act, 1955. The complainant had initiated criminal proceedings as against the petitioner herein and another. The trial Court having taken cognizance of the alleged offence punishable under Section 7 of the Act, 1955, for violation of the aforesaid clauses of the Control Order, has issued summons to the accused persons and being aggrieved by the same, the petitioners are before this Court.

4. Learned counsel for the petitioner submits that, the petitioner has been arrayed as accused No.2 in his capacity as Managing Director of the company. The petitioner is being held vicariously liable for the company



and therefore, the company is a necessary party for the criminal proceedings as provided under Section 10 of the Act, 1955. Accordingly, he prays to allow the petition.

5. Per contra, learned HCGP opposed the petition and submits that, the Managing Director of the company is made as a party and therefore, there is compliance of Section 10 of the Act, 1955.

6. Section 10 of the Essential Commodities Act, 1955, 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:

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."

7. A reading of the aforesaid provision of law makes it very clear that, when the offences are alleged to have been committed by a company, the person in-charge of the company and was responsible for the sales of the company as well as the company shall be deemed to be guilty of the contravention and shall be proceeded against and punished accordingly. Therefore, company of which the accused are employees were required to be arrayed as accused in the impugned proceedings and the complaint cannot be proceeded as against the Managing Director, Director or any employee of the company in the absence of the Company being made as a party to the criminal proceedings. In similar circumstances, this Court in Criminal Petition No.200686/2024, disposed of on



28.06.2024, has quashed the impugned criminal proceedings.

8. Under the circumstances, I am of the opinion that, since the company has not been arrayed as accused in the present case, the criminal proceedings initiated gets vitiated for not complying the requirement of Section 10 of the Act, 1955. Hence, the impugned criminal proceedings cannot be sustained. Accordingly, I pass the following:

ORDER

- (i) The criminal petition is allowed;
- (ii) The entire proceeding in C.C.No.520/2022 pending before the Civil Judge and JMFC Court, Sindagi, registered for the offence punishable under Section 7 of the Essential Commodities Act, 1955, is quashed as against the petitioner herein.



(iii) However, this order will not come in the way
of the respondents taking action against the
petitioner in accordance with law.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SVH
List No.: 1 Sl No.: 38
CT:PK