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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3888 OF 2013

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Govindram Sohanlal Mali ... Petitioner
V/s.
The State of Maharashtra and Others ... Respondents

Mr. P. A. Pol i/b Pol Legal Juris, for Petitioner.

Mrs. Megha S. Bajoria, for state-Respondent no. 1.

Mr. Bagwan, PSI.

CORAM : AMIT BORKAR, J.

DATED : APRIL 01, 2026

P.C.:

1. The present petition raises a challenge which has its origin in the registration of a First Information Report alleging commission of offences punishable under Sections 3 and 4 of the Essential Commodities Act.

2. The case of the prosecution, in substance, is that the petitioner was found to be in possession of edible oil and Vanaspati Ghee in quantities exceeding the limits fixed under an order issued in exercise of powers under Section 3 of the said Act. The allegation proceeds on the footing that such excess storage amounts to contravention of the statutory control



mechanism intended to regulate supply and prevent hoarding. However, it is necessary to examine whether the very foundation of this allegation, namely excess possession, is borne out from the material placed on record. If such foundational fact itself appears doubtful or unsupported, the continuation of criminal proceedings would require careful scrutiny.

3. The Supurtnama dated 04 August 2013, which is annexed to the FIR, assumes significance in this context, as it records the actual quantity of goods found in the custody of the petitioner at the relevant time. As per this document, the total edible oil allegedly found was 2515.6953 kilograms, and the quantity of Vanaspati Ghee was 1490.716 kilograms. These figures are not in dispute and form part of the prosecution record itself. Therefore, the correctness of these quantities need not be re-examined at this stage, but what requires consideration is whether these quantities, even if accepted as they are, constitute a breach of the statutory limits prescribed under the applicable control order.

4. The learned Advocate appearing for the petitioner has drawn attention to the control order dated 23 February 2010, which has been issued under Section 3 of the Essential Commodities Act and forms the governing framework for determining permissible stock limits. This document has been placed on record at Exhibit D. The submission is that the said control order clearly specifies the maximum quantities that can be lawfully possessed by different categories of dealers, and



therefore, the alleged contravention must be tested strictly against those prescribed limits. It is urged that without such comparison, mere possession of goods, even in substantial quantity, cannot automatically give rise to an offence.

5. Upon careful reading of the schedule appended to the said control order, it becomes apparent that the prescribed stock limit for edible oil in the case of a wholesaler, is 2000 quintals and for a retailer, it is 200 quintals. These limits reflect the legislative intent to regulate large scale hoarding rather than ordinary commercial possession. When these limits are converted into comparable units, it becomes evident that the quantities attributed to the petitioner, as recorded in the Supurtnama, are lower than the ceiling prescribed even for a retailer. This aspect is important as the allegation of excess storage loses its basis if the quantity is within permissible limits.

6. In light of this position, the quantity of edible oil found in possession of the petitioner, being 2515.6953 kilograms and the quantity of Vanaspati Ghee being 1490.716 kilograms, do not appear to cross the threshold fixed under the control order. The figures fall far below the statutory limits. Therefore the essential ingredient of the alleged offence namely possession in excess of the prescribed limit is not satisfied. If the foundational requirement of the offence itself is absent allowing the criminal proceedings to continue would not serve the ends of justice. On the contrary it would amount to subjecting the petitioner to



unnecessary prosecution without legal basis. In such circumstances, the continuation of proceedings would amount to an abuse of the process of law as it would be based on a misapplication of the statutory provisions.

7. For these reasons, the petition deserves to be allowed. The Rule is made absolute in terms of prayer clauses 'a' and 'b'.

8. The petition stands disposed of accordingly.

(AMIT BORKAR, J.)