



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 6TH DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO.105348 OF 2025

BETWEEN:

SRI RAVI KULLOLLI
AGE: 39 YEARS, OCC. BUSINESS,
PROP. MAHANTESH ENTERPRISES,
OPP. POLICE STATION, LOKAPUR-587122,
TQ. MUDHOL, DIST. BAGALKOTE.

...PETITIONER

(BY SRI.N.L. BATAKURKI, ADVOCATE)

AND:

THE STATE OF KARNATAKA THROUGH
SHRI M.R. NAGUR, AGE: 47 YEARS,
FERTILIZER INSPECTOR CUM ASSISTANT DIRECTOR OF
AGRICULTURE, O/O. JOINT DIRECTOR OF AGRICULTURE,
BAGALKOTE-587101, TQ. AND DIST. BAGALKOTE,
REP. BY SPP, AG OFFICE,
HIGH COURT BUILDING, DHARWAD.

...RESPONDENT

(BY SMT.MALA BHUTE, AGA)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (UNDER SECTION 528 OF BNSS), PRAYING TO QUASH THE ORDER OF ISSUE OF PROCESS FOR THE OFFENCE PUNISHABLE UNDER CLAUSE 19 OF FERTILIZER (CONTROL) ORDER, 1985 R/W. SECTION 3 AND 7 OF THE ESSENTIAL COMMODITIES ACT BY THE PRIL. CIVIL JUDGE AND J.M.F.C., MUDHOL IN CC NO.573/2021 DATED 15.07.2021 AND CONSEQUENTLY QUASH THE COMPLAINT AGAINST THE ACCUSED NO.1/PETITIONER HEREIN IN THE INTEREST OF JUSTICE AND EQUITY.





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

CORAM: THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

ORAL ORDER

1. The petitioner has sought to quash the order issuing process against him in C.C. No.573/2021, for the offence punishable under Clause 19 of The Fertilizer (Control) Order, 1985 read with Sections 3 and 7 of the Essential Commodities Act, by the Court of Principal Civil Judge and JMFC-Mudhol.

2. The matter arises out of a private complaint filed by the Fertilizer Inspector cum Assistant Director of Agriculture, (HQ), O/o Joint Director of Agriculture, Bagalkote. The said complaint was filed against accused No.1, owner /proprietor of the firm-M/s Mahantesh enterprises, accused No.2-Compliance Officer of Zuari Agro Chemical Limited and one more accused alleging that they have committed an offence under Clause 19 of The Fertilizer (Control) Order, 1985 read with Sections 3 and 7 of the Essential Commodities



Act, for having manufactured and sold the non-standard fertilizer.

3. The petitioner is said to be the owner and proprietor of the firm M/s Mahantesh Enterprises, doing business as a retailer in fertilizers and accused No.2 is said to be the Compliance Officer of one Zuari Agro Chemical Limited. The allegations are that the said Zuari Agro Chemical Limited has manufactured non-standard fertilizer in question i.e. 19-19-19 complex fertilizer and supplied to the retailers and thereby committed the aforementioned offences.

4. It is contented by the learned counsel for petitioner that for purchasing the fertilizer and its quality, the petitioner cannot be made responsible. He contended that the company which manufactured the fertilizer, being a necessary party, not being arraigned as an accused in the complaint, the proceeding vitiates.

5. Learned AGA opposed the petition contending that the petitioner has to take all contentions before the trial court



and in view of the *prima facie* case against him, the proceedings cannot be quashed.

6. Admittedly, the company is not arraigned as an accused in the complaint. In similar circumstances, it is held in Criminal Petition No.102651/2022 disposed on 14.09.2022 as under:

"8. Section 10 of the Essential Commodities Act, 1955, deals with the offence by Companies and it reads as follows:

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.

9. *Perusal of Section 10 of the Essential Commodities Act, 1955 makes it evident that wherever contravention is by a Company, then 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. Therefore, petitioner is being made liable on account of he being an employee of Company in question and therefore, until and unless the company is arraigned as accused, the petitioner cannot be held responsible.*

10. *In fact, the Hon'ble Apex Court in **Aneeta Hada Vs. Godfather Travels and Tours Private Limited**¹ while considering the offence committed by the company has held as follows:*

"53. *It is to be borne in mind that Section 141 of the Act is concerned with the offences by the company. It makes the other persons vicariously liable for commission of an offence on the part of the company. As has been*

¹ (2012) 5 SCC 661



stated by us earlier, the vicarious liability gets attracted when the condition precedent laid down in Section 141 of the Act stands satisfied. There can be no dispute that as the liability is penal in nature, a strict construction of the provision would be necessitous and, in a way, the warrant.

... ..

56. *We have referred to the aforesaid passages only to highlight that there has to be strict observance of the provisions regard being had to the legislative intendment because it deals with penal provisions and a penalty is not to be imposed affecting the rights of persons, whether juristic entities or individuals, unless they are arrayed as accused. It is to be kept in mind that the power of punishment is vested in the legislature and that is absolute in Section 141 of the Act which clearly speaks of commission of offence by the company. The learned counsel for the respondents have vehemently urged that the use of the term "as well as" in the section is of immense significance and, in its tentacle, it brings in the company as well as the Director and/or other officers who are responsible for the acts of the company and, therefore, a prosecution against the Directors or other officers is tenable even if the company is not arraigned as an accused. The words "as well as" have to be understood in the context.*

59. *In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a*



company as an accused is imperative. The other categories of offenders can only be brought in the drag-net on the touchstone of vicarious liability as the same has been stipulated in the provision itself. We say so on the basis of the ratio laid down in C.V. Parekh [(1970) 3 SCC 491 : 1971 SCC (Cri) 97] which is a three-Judge Bench decision. Thus, the view expressed in Sheoratan Agarwal [(1984) 4 SCC 352 : 1984 SCC (Cri) 620] does not correctly lay down the law and, accordingly, is hereby overruled. The decision in Anil Hada [(2000) 1 SCC 1 : 2001 SCC (Cri) 174] is overruled with the qualifier as stated in para 51. The decision in Modi Distillery [(1987) 3 SCC 684 : 1987 SCC (Cri) 632] has to be treated to be restricted to its own facts as has been explained by us hereinabove.”

7. It is relevant to mention that the proceedings against accused No.2 has been quashed by this Court in Criminal Petition No.100296/2023 vide Order dated 07.02.2023. The petitioner is also entitled to the relief sought in the petition.

8. Accordingly the following:

ORDER

Petition is allowed. The entire proceedings against the petitioner in C.C. No.573/2021 on the file of the learned



**NC: 2026:KHC-D:1770
CRL.P No. 105348 of 2025**

Principal Civil Judge and JMFC, Mudhol, are quashed.
Consequently, I.A.2/2025 is disposed of.

**SD/-
(MOHAMMAD NAWAZ)
JUDGE**

kmv
CT:PA