



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO.200556 OF 2026

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

BETWEEN:

SRI. PRANESH S/O RAMADAS,
AGED ABOUT 27 YEARS,
OCC: DRIVER, R/O SINDHANUR DODDI,
IEEJA MANDALAM,
DIST: JOGULAMBA GADWAL-509129,
(TELANGANA STATE).

...PETITIONER

(BY SRI ARUNKUMAR AMARGUNDAPPA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH THE SHO,
IDAPANUR POLICE STATION,
TQ: AND DIST: RAICHUR, REPTD. BY
THE ADDL. STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585102.
2. SRI. AVINASH KAMBALE
AGE: MAJOR, OCC: POLICE OFFICER,
IDAPANUR POLICE STATION,
TQ: AND DIST: RAICHUR-584140.

...RESPONDENTS

(BY SRI JAMADAR SHAHABUDDIN, HCGP)





THIS CRL.P. IS FILED U/S 528 OF BNSS (NEW), U/S.482 OF CR.P.C.(OLD), PRAYING TO ALLOW THE PETITION AND FURTHER QUASH THE FIR AND COMPLAINT PRECEDED BY AN ORDER OF TAKING COGNIZANCE BY THE MAGISTRATE DATED 18.12.2023 IN C.C NO.2951/2023, PENDING ON THE FILE OF III ADDL. SENOR CIVIL JUDGE AND JMFC, RAICHUR, REGISTERED BY THE RESPONDENT NO.1-IDAPANUR POLICE STATION, BASED ON THE COMPLAINT FILED BY THE RESPONDENT NO.2, FOR THE COMMISSION OF ALLEGED OFFENCES PUNISHABLE U/SEC.3 AND 7 OF E.C. ACT., 1955 AND SEC.18 OF PDS CONTROLLING ORDER, 2016.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL ORDER

The petitioner has filed this petition under Section 528 of the Bhratiya Nagarik Suraksha Sanhita, 2023 seeking the following relief:

"Wherefore, it is most humbly prayed before this Hon'ble court to allow the petition and further quash the FIR & Complaint preceded by an order of taking cognizance by the Magistrate dated 18.12.2023 in C.C.No.2951/2023, pending on the file of III Addl. Senor Civil Judge & JMFC, Raichur, registered by the respondent No.1-Idapanur Police



Station, based on the complaint filed by the respondent No.2, for the commission of alleged offences punishable U/Sec.3 and 7 of E.C. Act., 1955 & Sec.18 of PDS Controlling Order, 2016, in the ends of justice."

2. I have heard the arguments on both sides.

3. Learned counsel for the petitioner has urged the following grounds:

"1. That, filing of complaint and thereafter charge sheet and order of taking cognizance of the alleged offence is wholly illegal, arbitrary and contrary to the procedure prescribed under the EC Act., 1955. As such continuation of criminal proceedings against Petitioner is sheer abuse of process of law. Therefore the same calls for interference of this Hon'ble court to pass orders quashing the criminal proceedings pending before the trial court as against the Petitioner/sole accused.

2. A careful perusal of complaint as well charge-sheet allegations, it is clear that, except self serving statement of CW.1 and CW.4 no material is forthcoming to say that the alleged bags found in the vehicle was meant for distribution for the public. Furthermore, as per the complaint allegations accused allegedly collected the rice from few villages



of Telangana and transporting the same to Raichur intending to sell for higher price. However, I.O. did not collect any evidence from the officials of Telangana State to ensure that the rice bags found in the possession of accused was meant for public distribution system.

3. Perusal of the charge sheet material indicates that, the allegation against the accused herein is that, they were transporting the food grains meant for distribution under PDS unauthroizedly. The charge sheet material does not disclose as to where the accused procured the Bed grains meant for distribution under PDS, and also no material is placed that, the seized food grains were meant for distribution under POS. In the absence of any material that, the seized food grains were meant for distribution under PDS, the registration of FIR culminating in laying the charge sheet stands vitiated.

4. The prosecution has not produced any material to substantiate that the seized rice was meant for PDS distribution. Furthermore, no warrant was obtained from the jurisdictional Magistrate, as mandated under Clause 19 of the PDS Control Order. The issue involved in this petition is fully covered by the decision of this Hon'ble court in the Crl.P.No.200775/2023.



5. *In the absence of reference to a particular Control Order, no offence U/Secs.3 & 7 of the Act is made out. It is submitted that contravention of a specific order issued under Section 3 is a sine qua non for constituting an offence U/Sec.7 of the Act. Reliance in this regard has been placed on the judgment of the Hon'ble Supreme Court in **K.S. Subhiya vs. State of Karnataka, reported in AIR 1979 SC 711**, wherein it has been held that the safeguards provided under the Act are intended to protect the liberty of citizens and to prevent frivolous or ill-founded prosecutions, and that initiation of prosecution without compliance of statutory requirements vitiates the proceedings.*

6. *Respondent No.1-Police filed charge-sheet before the trial court for the offence punishable U/Sec.3 & 7 of E.C. Act., 1955 and Sec. 18 of PDS Controlling Order, 2016. However, learned Magistrate mechanically without application of judicious mind took cognizance of the offences punishable U/Sec.279 & 338 of IPC.*

7. *Coordinate Bench of this Court in W.P.No.36438-439/2014 and W.P.No.36542/2014 (GM-EC) disposed of on 03.12.2014, at Para No. 14, has held as under:-*



14. In the instant case, petitioners are not authorized dealers. They are not shown to be engaged in purchase, storage or sale of food grains which were issued to the authorized dealer for distribution under the public distribution system. Therefore, essential ingredient explicitly stated under Clause 18 (a) i.e., the goods / commodities must have been issued to the authorized dealer under the public distribution system is missing. No finding is recorded by the 1st respondent in this regard. In fact, there is no material whatsoever to indicate this aspect. Therefore, as rightly contended by the learned counsel for the petitioners, unless the NC: there is material to show that 2025:KHC:10677 commodities were issued to an authorized dealer for distribution under the public distribution system or that a person other than the authorized dealer had sought to purchase or sell or store or offer for sale food grains meant for distribution under public distribution system through the price depots, prohibition contained under Clause 18 (a) of the Control Order would not be attracted. In the absence of such findings such action will not attract penal measure including seizure or forfeiture."



8. *In the instant case, the prosecution has not placed on record any corroborative material to establish that the rice/food grains transported by the petitioners were meant for distribution under the Public Distribution Scheme. The prosecution has also not placed on record any material to substantiate that the petitioners procured the rice seized from the dealers, who were authorized to distribute the same to the beneficiaries under the PDS. In the absence of any material to establish that the rice/food grains seized from the petitioners were meant for distribution under PDS, the continuation of the Criminal proceedings will be an abuse of process of law.*

9. *That, the allegations in the first information are absurd, malicious, or lack legal basis. Further, the complaint allegations do not constitute any offence much less the one alleged.*

10. *That even if the allegations made in the complaint is taken as true the same will not constitute the offences alleged. Therefore to prevent abuse of process of court or otherwise to secure ends of justice proceedings are to be quashed initiated against the Petitioner.*

11. *That even if it is assumed that the alleged allegations constitute an offence, but there is no*



legal evidence adduced or collected by the prosecution therefore; manifestly the prosecution fails to prove the same. Under these circumstances to secure ends of justice and to prevent abuse of process of law, the proceedings are liable to be quashed."

On all these grounds, he prays to allow this petition.

4. I have examined the material placed before this Court.

5. On the basis of the complaint filed by Avinash Kambale, the PSI, Idapanoor Police have registered the case in Crime No.47/2023 against the accused Pranesh S/o Ramadasa for the commission of offences under Sections 3 and 7 of the Essential Commodities Act, 1955 (for short, 'EC Act') and Section 18 of the Public Distribution System (Control) Order, 2016 (for short, 'the PDS (Control) Order') and submitted FIR to the Court. After investigation, the Investigating Officer has submitted the chargesheet against the accused for the commission of offences under Sections 3 and 7 of the EC Act and Section



18 of the PDS (Control) Order. After filing the chargesheet, the Trial Court has passed the following order:

"The PSI, Idapnur PS, has submitted Charge sheet against Accused is on Police notice in Cr. No.47/2023 for the offence punishable U/sec. 279, 338 of IPC.

- 1. Accused is on Police notice.*
- 2. The Charge sheet with enclosures shows.*
 - a) Accused is on Police notice on dated 22.08.2023*
 - b) Charge sheet filed on 24.11.2023 (90 days)*
 - c) As per Column 11 of Charge sheet there are 1 properties with PF No.41/2023 dated 23.08.2023 are put up herewith.*

Hence submitted for orders."

and that on 18.12.2023 the Court has passed the following order:

"Perused the charge sheet filed by PSI., Idapanur PS against accused is in Cr. No.47/2023 for offences punishable under Section 279, 338 of IPC with enclosures.



The accused is on police bail.

The contents of charge sheet show prima-facie case against the accused, and it is found sufficient materials are here to proceed against them.

Hence, it is a fit case to be taken cognizance of the above said offences, and hence cognizance of the above said offences is taken.

Register a criminal case against the accused by registering in the prescribed register.

Issue summons to the accused person returnable by 1/2."

6. The Investigating Officer has submitted the chargesheet against the accused for the offences punishable under Sections 3 and 7 of the EC Act and Section 18 of the PDS (Control) Order. However, without application of mind, mechanically, the Trial Court has taken cognizance against the accused for the offences under Sections 279 and 338 of the Indian Penal Code, which is not at all concerned to the present case on hand.



Hence, the impugned order is not sustainable under law.

Accordingly, I proceed to pass the following:

ORDER.

(a) The Criminal Petition is partly allowed.

(b) The impugned order dated 18.12.2023 passed in C.C. No.2951/2023, pending on the file of the III Additional Senior Civil Judge and JMFC Court, Raichur is set aside.

(c) The matter is remitted back to the III Additional Senior Civil Judge and JMFC Court, Raichur, with a direction to pass appropriate/necessary orders after perusal of the prosecution papers and proceed with the case in accordance with law.

(d) The registry is directed to send a copy of this order to the Trial Court.



In view disposal of the main petition, pending interlocutory application does not survive for consideration. Accordingly, stands disposed of.

Sd/-
(G BASAVARAJA)
JUDGE

RSP
List No.: 1 Sl No.: 26
CT: BH