



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF MAY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL PETITION NO. 200661 OF 2026

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

BETWEEN:

MANAGING DIRECTOR
M/S. VANITHA AGROCHEM PVT LTD.,
WRONGLY MENTIONED IN RODER SHEET AS
M/S VANITHA AGRO CHEMICAL (I) PVT LTD.,
REPRESENTED BY
NETAJI PRATAPRAO POWAR S/O PRATAPRAO
AGED ABOUT 62 YEARS,
HAVING REGISTERED OFFICE AT
GATE NO.1036/1037 TAKAWADE KOLHAPUR 416 121.

...PETITIONER

(BY SRI NITIN RAMESH AND SRI SANDEEP V.PATIL, ADVOCATES)

AND:

1. STATE OF KARNATAKA,
REP BY ASSISTANT DIRECTOR OF AGRICULTURE AND
FERTILIZER INSPECTOR VIJAYAPURA
SAJJADAPIR A. INAMDAR
OFFICE OF JOINT DIRECTOR OF AGRICULTURE
VIJAYAPURA - 586 101.
2. STATE OF KARNATAKA
REP BY ASSISTANT DIRECTOR OF AGRICULTURE AND
FERTILIZER INSPECTOR, INDI
MAHADEVAPPA
OFFICE OF ASST. DIRECTOR OF AGRICULTURE
INDI TALUK 586 209.

...RESPONDENTS

(BY SRI GOPALAKRISHNA B.YADAV, HCGP FOR R1 AND R2)





THIS CRL.P IS FILED U/S 528 OF BNSS, 2023 (NEW), U/S.482 OF CR.P.C.(OLD), PRAYING TO QUASH THE PRIVATE COMPLAINT AND ENTIRE PROCEEDINGS AGAINST THE ACCUSED NO.2/PETITIONER IN CC NO.29/2026 ARISING OUT OF PCR 2/2023 PENDING ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC, INDI FOR VIOLATION OF RULE 19(A) AND (B) OF THE FERTILIZER CONTROL ORDER, 1985 R/W SECTION 3 AND 7 OF ESSENTIAL COMMODITIES ACT, 1955 AT ANNEXURE A AND B AND ETC.

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

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL ORDER

Accepting the counsel's submission, office objection No.2 is over-ruled.

This petition is filed under Section 528 of BNSS, 2023/482 of Cr.P.C. to quash the entire proceedings in C.C.No.29/2026 arising out of PCR No.2/2023 pending on the file of learned Senior Civil Judge and JMFC, Indi insofar as accused No.2, for the alleged violation of Rule 19(A) and (B) of the Fertilizer Control Order, 1985 read with Section 3 and 7 of Essential Commodities Act, 1955.

2. The factual matrix of the complainant's case is that on 23.08.2021, the first respondent i.e., the Assistant Director of Agriculture and Fertilizer Inspector, Indi



conducted an inspection at the dealer outlet of M/s. A.J. Dhanashetti & Co. located in Indi taluk and found and collected samples of 'Mono Ammonia Phosphate' fertilizer which were allegedly manufactured by M/s. Vanitha Agrochem (India) Private Limited. The samples were sent to Fertilizer Control Laboratory, Dharwad for analysis. The analysis report issued from the Fertilizer Control Laboratory, Dharwad wherein it is opined that the sample is not according to specification and fails in nutrient content. Accordingly, on 24.09.2021 the first respondent issued notice to the dealer viz. accused No.1 informing them that the fertilizer collected from their premises were found to be non-standard. Thus, the First respondent replied to the notice seeking re-analysis of the samples in question. Based on the request of the dealer, samples were forwarded to Fertilizer Control Laboratory, Uttar Pradesh for re-analysis. The re-analysis report stated that the sample is not according to specification. Thus, the respondents initiated private complaint under Section 200



of Cr.P.C. in PCR No.2/2023 against accused Nos.1 and 2 alleging involvement in the sale and manufacture of sub-standard fertilizers in violation of Clause-19(A) and (B) of Fertilizer Control Order, 1985 read with Sections 3 and 7 of Essential Commodities Act, 1955.

3. The Trial Court, after receipt of the complaint, took cognizance of the alleged offences. Taking exception to the same, accused No.2 – Managing Director of Fertilizer Company has filed this petition.

4. Learned counsel for the petitioner has contended that the petitioner is innocent and he has not committed the alleged offences. The petitioner is the Managing Director of the company and he is nowhere connected to the alleged fact. The samples were collected from sealed boxes and hence, absolutely there are no specific allegations against the petitioner regarding his culpability of adulteration or the sub-standard fertilizer contained in the stitched bags. Moreover as per Annexure-D the company has appointed a Responsible



Officer by name Prashant Ramachandra Taware. When such being the case, accused No.2 being the Managing Director of the company is not liable for any act. Hence, he prayed to allow the petition.

5. Learned HCGP contended that there are *prima facie* material to show that the petitioner has committed the alleged offences and the company is not made as accused as required under Section 10 of the Essential Commodities Act, 1955. Hence, he prayed to reject the petition.

6. Perused the material available on record and considered the rival submissions of both sides.

7. Perusal of the record reveals that on 23.08.2021, respondent No.1 - the Assistant Director of Agriculture and Fertilizer Inspector, Indi, had conducted an inspection at the dealer outlet of M/s. A.J. Dhanashetti & Co. located in Indi taluk and found and collected samples of 'Mono Ammonia Phosphate' fertilizer which were



allegedly manufactured by M/s. Vanitha Agrochem (India) Private Limited. As per the analysis report, the sample is not according to specification and fails in nutrient content and sub-standard. Accordingly, notices were issued to accused No.1. In turn, accused No.1 requested the authorities to re-analyze the samples. Thus, the samples were sent to Fertilizers Control Laboratory, Uttar Pradesh for re-analysis and as per the re-analysis report also the sample sent to laboratory was not according to specification, thereby committed the offences alleged.

8. On perusal of the entire complaint there is no specific allegation made against the petitioner as to how he is responsible for the adulteration of the fertilizers or how he is responsible for the sub-standard fertilizers contained in the stitched bags.

9. In the case of ***Sanjay Gowda vs. State of Karnataka*** in ***Criminal Petition No.7408/2015*** disposed of on ***04.08.2016***, the Co-ordinate bench of this Court held that "*as per the Government Order issued by the*



Department of Agriculture which requires appointment of an officer for compliance of Fertilizer Control Order under every company manufacturing fertilizers and when such officer is named, it is only against such officer that any violation of law under the said provisions could be carried forward and not against any other officers of the company or its Managing Director."

10. Learned counsel for the petitioner submits that the company has passed resolution, fixing the responsibility on compliance officer of the company viz. Prashanth Ramchandra Taware vide Annexure-D who is the responsible officer as per clause-24 of FCO, 1985.

11. Insofar as the contention of learned HCGP for non-inclusion of company under Section 10 of E.C. Act is concerned, learned HCGP contended that the company is not arraigned as an accused in the complaint. In similar circumstances, the co-ordinate bench of this court in Crl.P.No.102651/2022 disposed of on 14.09.2022 has held 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 subsection 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 subsection (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 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 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."

12. In the light of the above facts and circumstances of the case and the decision cited *supra*, the Court arrives at irresistible conclusion that for maintaining the prosecution under Section 141 of the Act arraigning of a company as an accused is imperative. Therefore, there is no ground in the contention of learned HCGP.



Therefore, continuation of case against accused No.2 - the Managing Director will be abuse of process of law. Hence, the Court proceeds to pass the following:

ORDER

The Criminal Petition is ***allowed***.

The proceedings in C.C.No.29/2026 arising out of PCR No.2/2023 on the file of learned Senior Civil Judge and JMFC, Indi insofar as petitioner – accused No.2 is hereby quashed.

Pending I.A.s, if any, stand disposed of as the same do not survive for consideration.

**Sd/-
(VENKATESH NAIK T)
JUDGE**

SWK
List No.: 1 Sl No.: 28