

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

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CRM(M) No. 413/2020

Mohit Gupta and anr.

.....Appellant(s)/Petitioner(s)

Through: Mr. Sachin Gupta, Adv.

vs

U. T. of J&K th. SHO Police Station, Bari
Brahmana, Jammu

..... Respondent(s)

Through: Mr. Vishal Bharti, Dy.AG

Mr. Ramesh Chander, SI Police Station, Bari
Brahmana, is present along with CD file

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
12.03.2026

1. The petitioners have impugned FIR bearing No. 0237/2020 dated 14.10.2020 for commission of offences punishable under sections 272, 273, 328, 420, 120-B IPC, 7/16 of Food Safety Act and 3/7 of Essential Commodities Act registered with Police Station, Bari Brahmana, Samba.
2. It is stated that a bare perusal of the impugned FIR would reveal that the petitioners have been alleged to have committed offences under sections 272 and 273 IPC, but the respondent never had any report from the competent authority to suggest that there was adulteration in the food and while the case was under investigation, the Government Analyst, Jammu submitted the reports of the samples in question lifted pursuant to the impugned FIR and the said reports categorically declared that the products lifted from the unit of the petitioners were of standard quality.
3. It is further submitted that no offence under Section 328 IPC is made out against the petitioners. It is contended that the said provision has been

invoked solely with the intention to harass the petitioners and to stifle fair market competition, particularly as the petitioners have been established as formidable competitors for over 25 years. It is further submitted that the allegations, even if taken at their face value, do not satisfy the essential ingredients of the offences punishable under Section 420 IPC or under Sections 3/7 of the Essential Commodities Act.

4. Status report has been filed by the respondent, thereby stating the factual aspects of the case. Today, Mr. Romesh Chander, Investigating Officer, Police Station, Bari Brahmana, who is present in person in Court, has produced the CD file.
5. Mr. Sachin Gupta, learned counsel for the petitioners has submitted that in view of the report of the Government Analyst, no offence is made out against the petitioners, and no FIR could have been registered against the petitioners for commission of offences under section 7/16 of the Food Safety Act.
6. *Per contra*, Mr. Vishal Bharti, learned Dy.AG representing respondent, has submitted that the appropriate orders in accordance with law may be passed.
7. Heard and perused the record.
8. A perusal of the record reveals that on August 14, 2020, Police Station Bari Brahmana received an information from a reliable source regarding a factory operating under the name and style of 'Ganpati Food Products' at Phase No. 02, Lane No. 04, SIDCO, Bari Brahmana. It was alleged that the unit was illegally procuring readymade mustard and soybean oils from Punjab and repacking them under the brand name 'Zamindara Mustard Oil' in violation of SIDCO norms.

9. Furthermore, it was stated that the owner was operating an additional unlicensed unit, 'Shree Ganesh Trading Wing,' on the same premises without obtaining the requisite license from the DIC. This second unit allegedly packed soybean oil under the brand 'Kamal Deep' without proper filtration or adherence to health and safety standards. Additionally, the FSSAI license for 'Ganpati Food Products' had reportedly expired, suggesting that the petitioners were operating with a common criminal intention and in a manner likely to spread dangerous diseases.
10. On receipt of this information, FIR bearing No. 237/2020 dated 14.10.2020 for commission of offences punishable under sections 272, 273, 328, 420, 120-B IPC, 7/16 of Food Safety Act and 3/7 of Essential Commodities Act was registered with Police Station, Bari Brahmana, Samba.
11. During investigation, Investigating Officer prepared the site plan and seized two oil tankers bearing registration Nos. PB04R 9497 and JK02AT-5951 respectively and requested the Food Inspector to collect the samples of Soyabean and Mustard Oil from the premises of “M/s Ganesh Trading Company”, Phase-II, Lane No. 4, SIDCO Complex, Bari Brahmana, Samba. Inspector, accordingly, collected the samples separately for chemical analyses in the laboratory. After the completion of requisite formalities, two tankers were released on the supurdnama and the premises of “M/s Ganpati Trading Company” was also de-sealed pursuant to order passed by learned Munsiff (JMJC) Samba. The Food Analyst opinion has been received and the results are reported to be negative.
12. The CD file further reveals that there are three reports bearing Nos. FSSA/J/202, FSSA/J/204 and FSSA/J/205 each dated 03.11.2020, wherein

it has been mentioned that the samples confirmed to the standard prescribed for Mustard/Soybean oil, as the case may be.

13. Thus, it is evident that there was no adulteration in the samples obtained from the premises of the petitioners. Accordingly, it cannot be said that the offences under section 272, 273, 328 and 420 IPC are made out. There is nothing on record to substantiate the allegations for commission of offence under Sections 3/7 of the Essential Commodities Act. The respondent has failed to produce any notification or Control Order that the petitioners are alleged to have violated, which is a mandatory prerequisite for invoking the provisions of the said Act. The invocation of Sections 7/16 is legally misplaced. These sections do not constitute independent penal provisions under the current regulatory framework governing food safety, and their inclusion in the FIR demonstrates a fundamental lack of application of mind by the respondent.
14. In view of the above, this Court is of the considered view that no offence is made out against the petitioners. The instant petition has merit, as such, the same is allowed. FIR bearing No. 237/2020 dated 14.10.2020 for commission of offences under sections 272, 273, 328, 420, 120-B IPC, 7/16 of Food Safety Act and 3/7 of Essential Commodities Act registered with Police Station, Bari Brahmana, Samba, is quashed.
15. CD file be returned to Mr. Vishal Bharti, learned Dy. AG.

(RAJNESH OSWAL)
JUDGE

Jammu
12.03.2026
Rakesh