

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2982 OF 2012

- 1) Maharashtra Hybrid Seeds Company Ltd.,
A Company registered under the
Companies Act, 1956, having its
registered office at Resham Bhavan,
78, Veer Nariman Road, Mumbai, and
having office at Dawalwadi, Jalna,
through its Authorised Signatory
 - 2) Govind s/o Ramjibhai Patel,
Age 51 years, Occu. Service,
Vice President (Cotton),
R/o 901, Sagar Garden,
Sambhajinagar, Mulund, Mumbai
At present residing at :
Maharashtra Hybrid Seeds Co. Ltd.,
Village Dawalwadi,
Tq. Badnapur, District Jalna
 - 3) Satish s/o Bhagwantrao Deshmukh,
Age 38 years, Occu. Service,
Associate Manager (Cotton),
R/o F-8, Adiya Nagari,
Ganesh Bungalow, Beed
- ... APPLICANTS**

VERSUS

- 1) The State of Maharashtra
 - 2) The Superintendent of Police,
Beed
 - 3) The Police Inspector,
City Police Station, Beed
 - 4) The Agriculture Development Officer,
Zilla Parishad, Beed
- ... RESPONDENTS**

(Copy to be served on Public Prosecutor, High Court of Judicature of Bombay, Bench at Aurangabad for respondents No.1 to 3)

.....
Mr. Shirish Gupte, Senior counsel with
Mr. S.V. Adwant, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondents
.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

Date of reserving judgment : 16th June, 2023

Date of pronouncing judgment : 26th September, 2023

JUDGMENT (PER R.G. AVACHAT, J.) :

Heard. This application under Section 482 of the Code of Criminal Procedure has been filed for quashment of the First Information Report (F.I.R.) bearing No.3022/2012, registered at City Police Station, Beed and the consequential criminal proceedings, being R.C.C. No.599/2018, pending before the Chief Judicial Magistrate, Beed for the offences punishable under Sections 3, 9(1), 7(1)(a), (ii) of the Essential Commodities Act, 1955 and Section 10(C) of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009 (for short the Act of 2009).

2. The F.I.R. was lodged by Seed Inspector-cum-Agricultural Development Officer, Zilla Parishad, Beed in his official capacity on 1/6/2012. It has been averred in the F.I.R. that, the

Seeds (Control) Order, 1983 has been promulgated under Section 3 of the Essential Commodities Act, 1955 ("E.C. Act" for short). Cotton seed has been notified to be essential commodity on 22/12/2010. it was mandatory on the producers and distributors of cotton seeds to furnish required information to the Controller as and when asked for by him.

3. It has been further averred in the F.I.R. that the Controller of Cotton constituted a District Level Committee for planning, supply and control of cotton seeds. The powers of Controller were delegated to the District Level Committee vide Circular dated 31/3/2011. The Controller had instructed Agricultural Development Officer to ensure that, cotton seed would be sold in a district at a controlled price. Maharashtra Hybrid Seeds Corporation Ltd. (Mahyco) – applicant No.1 was, therefore, issued certain instructions in that regard. The Mahyco was also instructed that the office of Seed Inspector be informed supply of cotton seeds. A decision in that regard was also taken in the meeting of the District Level Committee. It was further instructed to the Mahyco that if cotton seed was not supplied without prior permission, the Company would be solely responsible.

4. It has further been averred that, the representative of Mahyco was present to the meeting dated 30/4/2012. He informed in writing to have received only 920 packets of cotton seeds. It

was, however, realised that, Mahyco had already supplied cotton seed during period from 27/4/2012 to 28/4/2012. The said information ought to have been furnished to the licencing authority in advance of the supply of cotton seed made during the said period. The Mahyco, however, furnished the said information on 5/5/2012. As such, the Mahyco indulged in black-marketing and hoarding of B.T. Cotton seed stock. The supply of the cotton seed made during the said period was distributed and sold out by the distributors/ Suppliers. On the given day the stock was "Nil". Because of the same, the authorities could not control the distribution and supply of cotton seeds in the district of Beed. A law and order problem, therefore, arose. Post supply of the cotton seed, it was verified as to whether the cotton seed had ultimately reached respective farmers. Some of the farmers made a grievance of having not received cotton seed and/or were required to pay cost more than the controlled price. It was also found that the cotton seed to have been sold to persons not in existence (fictitious persons). As such, the Mahyco, only with a view to black-marketing the cotton seed, furnished false and misleading information to the licencing authority. A show-cause-notice was, therefore, issued to Mahyco on 22/5/2012. The notice was not responded to. It was, therefore, urged in the F.I.R. that investigation be made to find as to how much quantity of cotton seeds were produced and in what way it was supplied/ distributed

and quantity thereof.

5. The applicant No.2 is Vice President (Cotton) of the applicant No.1 Mahyco whereas the applicant No.3 is the Associate Manager (Cotton).

6. On investigation of the crime, the charge sheet has been filed.

7. Learned Senior Counsel for the applicants would submit that, the order of taking cognizance of offence/s under the Seeds Act, 1966 and Rules thereunder, if any, was without jurisdiction. He adverted our attention to Section 15 of the Act of 2009 to submit that a Court has been precluded from taking cognizance of an offence punishable under the Act of 2009 upon a police report. According to learned Senior Counsel, a competent Court could take cognizance of the offence punishable under the Act of 2009 only upon a complaint, in writing, made by the Controller or any other officer authorised by him for this purpose. He would further submit that, the informant was not a person authorised by the Controller to lodge a complaint. He would further submit that, constitution of District Level Committee, by the Controller by no stretch of imagination, could be termed as delegation of Controller's power to such a Committee.

8. Turning to the offences punishable under the E.C. Act,

learned Senior counsel would submit that, in compliance with the statutory mandate, the Mahyco had submitted monthly report relating to its business for the preceding month in a prescribed form to the licensing authority on or before fifth day of every month. Our attention has been drawn to certain communication between Mahyco and office of the Controller and Seed Inspector.

9. The informant (respondent No.4) did not have any authority to call for any information. The Controller of Seeds has not delegated his powers to the informant. Delegation of power, if any, by the Controller to the Seed Inspector could only be done by way of a notification in official gazette. The letter dated 5/5/2022 issued by the informant was received by the applicant Mahyco on 9th i.e. four days thereafter. The Mahyco responded to the said letter on 25th May, denying each and every allegation made therein. It was specifically denied that, seeds were supplied between 24/4/2012 and 26/4/2012. It is the specific case of Mahyco that, seeds were supplied from 27/4/2012 to 30/4/2012 and information in that regard was provided to the informant. Communications in that regard have been placed on record. According to learned Senior Counsel, malafides were unveiled by the fact that show-cause notice dated 22/5/2012 and the letter dated 24th May were sent through ordinary post only with a view to ensure those communications would reach Mahyco belatedly. The envelope

containing those letters was received by post at Jalna on 9th of June and Mahyco received the same on 11th of June.

10. It was further submitted that, the Mahyco issued letter dated 6/6/2012 to all its Dealers and Distributors asking them not to indulge in any illegal activities so far as regards supply and distribution of B.T. cotton seeds. The said communication was issued in good faith and in public interest.

11. It was further submitted that, the State of Maharashtra has enacted Seeds Act, 2009. This Act would prevail over Essential Commodities Act and the Seeds (Control) order. Mens rea is an essential ingredient of offence punishable under the E.C. Act. There is no violation of Section 9(1) of the E.C. Act since no false statement was made by the applicants. Applicants provided up-to-date and correct information to the authorities. The supply was in terms of the Supply Plan informed by Mahyco to the Controller and Director (I & QC) on 30/1/2012.

12. Turning to the police papers forming part of the charge sheet, learned Senior Counsel would submit that, the Court of Chief Judicial Magistrate erred in taking cognizance of the offence on police report. No order was passed under Section 3 of the E.C. Act. There was, therefore, no question of an offence punishable under Section 7 of the E.C. Act to have been committed.

13. It was further submitted that, Mahyco is of well reputation. Post the crime in question, no crime has been registered against it so far. Learned Senior Counsel relied on the following decisions to ultimately urge for allowing the application :

- (1) Criminal Application No.232/2013 with connected applications (Maharashtra Hybrid Seeds Company Ltd. & anr. Vs. State of Maharashtra & anr.) decided on 16/1/2015 – Nagpur Bench
- (2) Maharashtra Hybrid Seeds Company Ltd. & anr. Vs.
The state of Maharashtra (Criminal Application No.5256/2013, decided on 15/9/2014)
- (3) Maharashtra Hybrid Seeds Company Limited & anr. Vs.
The State of Maharashtra
(Criminal Application No.4402/2013 - decided on 3/3/2015)
- (4) Criminal Writ petition No.1289/2016
Ramnarayan s/o Bansilal Mundada Vs. The State of Maharashtra & anr., decided on 11/12/2017

14. Learned A.P.P. would, on the other hand, submit that, the informant has been conferred with the powers of Seed Inspector. A notification issued by the State Government in that regard has been relied on. He would further submit that, the Seeds (Control) Order, 1983 has been issued in exercise of powers conferred by Section 3 of the E.C. Act. The Inspector, with a view to secure compliance with the said order, has every authority to require any distributor to give any information in his possession with

respect to purchase, storage and sale of seeds by him. All the material relied on in support of the prosecution case was adverted to with an ultimate prayer for rejection of the application.

15. Considered the submissions advanced. Perused the F.I.R. and the police papers. Also gone through the authorities relied on. In case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, reported in **AIR 1992 S.C. 604**, it has been observed thus :

“In following categories of cases, the High Court may in exercise of powers under Article 226 or under S. 482 of Cr.P.C. interfere in proceedings relating to cognizable offence to prevent abuse of the process of any Court or otherwise to secure the ends of justice. However, power should be exercised sparingly and that too in the rarest of rare cases.

(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under S. 156(1) of the Code except under an order of a Magistrate within the purview of S. 155(2) of the Code.

(3) Where the uncontroverted allegations made

in the F.I.R. or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under S. 155(2) of the Code.

(5) Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

16. Moreover, in case of Keshub Mahindra Vs. State of M.P. (1996) 6 SCC 129, , it has been held,

Criminal Procedure Code, 1973 – Ss. 482, 397, 227 & 228 – Quashing of criminal proceedings – Court has a limited jurisdiction to make only a prima facie appraisal of the charge-sheet and supporting material to decide whether the allegations constituted the offence.

Offences under the Maharashtra Cotton Seeds Act, 2009 and breach of the rules made thereunder :

17. We do not propose to dilate on this aspect since Section 15 of the Maharashtra Cotton Seeds Act, 2009 mandates that no Court shall take cognizance of an offence punishable under the said Act except upon a complaint, in writing, made by a Controller or any other officer authorised by him for this purpose. Admittedly, no complaint, in writing, has been filed by the Controller or any other officer authorised by him for this purpose. The Court has taken cognizance of the offence/s punishable under the Maharashtra Cotton Seeds Act, 2009 on a police report filed under Section 173 of the Cr.P.C. In view of the same, the order taking cognizance of offence/s under the Maharashtra Cotton Seeds Act, 2009 is illegal and liable to be set aside. To this extent, we are inclined to allow this application.

Offence/s under the Essential Commodities Act :

18. The Essential Commodities Act is a Central legislation. It was enacted to regulate the production, supply and distribution,

trade and commerce in, certain commodities which are declared as essential commodities and specified in the schedule to that Act. Undisputedly, cotton seed has been declared to be an essential commodity by the Central Government vide notification dated 22/12/2010 and it has been specified in the schedule to the E.C. Act, 1955.

19. Section 3(1) of the Essential Commodities Act, 1955 reads thus :

3. Powers to control production, supply, distribution, etc. of essential commodities :-

(1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, or for securing any essential commodity for the defence of India or the efficient conduct of military operations, it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

Sub-Section (2) of Section 3 reads :

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide -

(a) to (g)

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(i) for requiring persons engaged in the production, supply or distribution of or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

20. Section 7 of the Essential Commodities Act speaks of penalties. It reads :

7. Penalties (1) If any person contravenes any order made under Section 3 -

(a) he shall be punishable –

(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and

(ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine.

Provided that the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term not less than three months.

21. Section 9 reads :

9. False statement – If any person –

(i) When required by any order made under Section 3 to make any statement or furnish any

information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

22. Section 10(A) reads :

10-A. Offences to be cognizable :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) every offence punishable under this Act shall be cognizable.

23. Section 11 reads :

11. Cognizance of offences : No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in Section 21 of the Indian Penal Code (45 of 1960) or any person aggrieved or any recognised consumer association whether such person is a member of that association or not.

24. Section 26 of the General Clauses Act, 1987 reads as under :

26. Provision as to offences punishable under two or more enactments :- Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

25. The F.I.R. has been lodged by the Seed Inspector-cum-Agricultural Development Officer, Zilla Parishad, Beed. He is a public servant. A Government Notification dated 13/10/2010, authorising Agricultural Development Officer, Zilla Parishad to exercise powers of Seed Inspector has been placed on record. Moreover, the Seeds (Control) Order, 1983 has been made by the Central Government in exercise of the powers conferred by Section 3 of the E.C. Act, 1955. Clauses 11, 12 & 13(1)(a) and 18 of the Seeds (Control) Order, 1983 reads as under :

11. Appointment of licensing authority :

The State Government may, by notification in the Official Gazette, appoint such number of persons as it thinks necessary to be licensing authority and may also define in that notification the area within which each such licensing authority shall exercise his jurisdiction.

12. Appointment of Inspectors :-

The State Government may, by notification in the Official Gazette, appoint such number of persons

as it thinks necessary to be Inspectors and may in such notification define the local area within which each such Inspector shall exercise his jurisdiction.

13. Inspection and punishment :-

(1) An Inspector may with a view to securing compliance with this Order -

(a) require any dealer to give any information in his possession with respect to purchase, storage and sale of seeds by him.

26. It needs no mention that, disputed factual matrix cannot be gone into in a proceeding under Section 482 of the Cr.P.C. The F.I.R. has admittedly been lodged by a public servant (Seed Inspector). It has specifically been averred therein that a District Level Committee constituted by the Controller of Seeds held a meeting on 10/1/2012. A representative of the applicant Mahyco had attended the said meeting. He, however, refused to sign the minutes of the meeting. He furnished the information, stating to have received only 920 packets of cotton seed. Vide Circular dated 31/3/2011, powers of Controller were delegated to the District Level Committee. On 23/4/2012, the instructions were given by the Controller to ensure that cotton seed is sold in controlled rate. The applicant Mahyco was instructed to submit its distribution/ sale plan four days in advance of actual sale/ distribution. It has further been averred that, information in that regard was supplied on 5/5/2012.

Along with the charge sheet, a representation/ communication made by 51 farmers on 9/5/2012. For better appreciation, the representation is reproduced in verbatim :

वरील विषयी आम्ही सर्व शेतकरी कळवितो की, दि. ०७/०५/२०१२ रोजी दैनिक दिव्य मराठा या पेपर मध्ये ७३५१ (कनक) चे ४५ हजार २०० पाकिटे आणि व त्याचे वाटप पंचायत समिती कृषी अधिकारी व तालुका कृषी अधिकारी यांचेकडे दिलेले आहेत अशी बातमी आली.

सदरील बातमीनुसार आम्ही बालाघाट कृषी विकास मंचातील शेतकरी ७/१२ घेऊन त्यांची यादी तयार केली व त्यानुसार समक्ष तालुका कृषी अधिकारी श्री गायकवाड साहेब, मंडळ कृषी अधिकारी यमपुरे साहेब, गुण नियंत्रण कृषी अधिकारी चांडक साहेब, पंचायत समिती कृषी अधिकारी आरबडवार साहेब, जिल्हा परिषद तंत्र अधिकारी श्री यम्बल साहेब यांचे बरोबर उत्तम ऍग्रो या ठिकाणी कणकेच्या बियाणासाठी गेलो.

उत्तम ऍग्रो या ठिकाणी त्यांनी वसुंधरा ऍग्रो एजन्सी चे मालक श्री बागमार, शीतल ऍग्रो चे मालक श्री कासट सत्तुभाऊ, मराठवाडा कृषी सेवा केंद्राचे मालक श्री बागमार, कलंत्री ऍग्रो एजन्सी चे मालक श्री कलंत्री यांचे बरोबर चर्चा केली व सदरील चर्चा करीत असतांना त्यांनी कागदोपत्री सर्व बियाणे सब डिलरला वाटप केलेले दाखविले व त्यांनी येणारे बियाणे व मागणी असलेले बियाणे यात खूप मोठा फरक आहे.

परंतु सदरील बियाणांचे फक्त ६००० पाकिटे (कनकचे) येणे बाकी आहे व तुम्हाला कनकचे (७३५१) बियाणे मिळणार नाही. मग बाजारात बियाणांचा तुटवडा असता तर कनकचे (७३५१) बियाणे मिळणार नाही. पाकीट २२०० रु. काळ्या बाजारात विक्री चालू आहे. सरळ मार्गी जर दुकानदार कडे चौकशी केली तर माल उपलब्ध नाही. मग अशा परिस्थितीत शेतकऱ्याने शेती करणे सोडून द्यावे का ?

दुसरे महत्वाचे म्हणजे बालाघाट वरील परिसरात कनक (७३५१) जातीचे उत्पादन चांगले येते व त्याचा कोणीही न प्रचार करता शेतकऱ्याची या वाणास मागणी मोठ्या प्रमाणात आहे मग अशा वेळी आपल्या स्तरावरून सदरील वाणाचा मोठ्या प्रमाणात मागणी करून पुरवठा का करत नाहीत.

तसेच आम्ही बालाघाट वरील सर्व शेतकऱ्याने बियाणासाठी काय करावे यावर आपण कृषी अधिकारी जिल्हा परिषद म्हणून काय कार्यवाही केली. तसेच सदरील कार्यवाही तातडीने करून आमच्या कापूस लागवडीपूर्वी बियाण्यांची वेळेवर उपलब्धता करून देण्यात यावे.

27. It was again informed by some of the farmers on 11/5/2012 as under :

उपरोक्त विषयी आम्ही खाली सही करणारे मौजे चऱ्हाटा येथील शेतकरी असून आम्हाला खरीप हंगामामध्ये महिको ७३५१ II-BT पिकाचे उच्च प्रतीच्या गुणवत्तेचे बियाणे लागवडीसाठी आवश्यक असल्याने आम्ही खाजगी कृषी सेवा केंद्राकडे मागणी केली असता उडवा - उडवीची उत्तरे देवून जे बियाणे आले ते आम्ही वाटप केले, अशी खोटी माहिती देवून आम्हां शेतकऱ्यांची दिशाभूल करीत आहेत. चालू हंगामामध्ये बियाणे लागवडीसाठी उपलब्ध करून न दिल्यास शेकडो शेतकरी कापूस लागवडीपासून वंचित राहणार आहेत, ही बाब गांभीर्याने विचारात न घेतल्यास कदाचित बियाणे न मिळाल्यामुळे शेतकरी आत्महत्याचा मार्ग स्वीकृत करतील ही बाब शासनास अतिशय धोकादायक असल्याचे आमचे ठाम मत आहे.

तरी विनंती की, आपल्या अधिनस्त व देखरेखीखाली विविध कृषी सेवा केंद्राची निर्मिती झाली असून सदरच्या सेवा केंद्रामधून आम्हा शेतकऱ्यांना महिको ७३५१ II-BT बियाणे उपलब्ध करून देण्याची आपणास विनंती आहे.

तरी सदरेही निवेदनाचा सहानुभूतीपूर्वक विचार करून खाली सहाय्य करणाऱ्या शेतकरी गटास विनाविलंब बियाणांचा पुरवठा करावा ही विनंती.

28. It is true that, in view of clause 18(2) of the Seeds (Control) Order, 1983, it was obligatory on the part of every dealer to submit monthly return relating to his business for the preceding

month in Form-C to the licensing authority by the fifth day of every month. Compliance of this provision is sought to be made out relying on certain communications. However, one cannot lose sight of an Inspector's powers under Section 13(1)(a) of the very Seeds (Control) order, referred to hereinabove. The informant has filed his affidavit, specifically stating that, he had issued applicant Mahyco a notice dated 5/5/2012, calling upon it to file its say for not supplying the B.T. Hybrid cotton seed. For better appreciation, paragraph No.7 of the affidavit of the informant is reproduced below :

“7. I say that, I had issued notice to the applicant on 5/5/2012 whereby calling upon the applicant to file its say for not supplying the BT Hybrid cotton seeds. In the said show cause notice, it was specifically brought to the notice of the applicant that as a result of the act of the applicant and non co-operation shown serious difficulties have been faced and it is the applicant, who is solely responsible for the said act and therefore, the applicant was called upon to file its say giving reasons for the lapse. I say that the said show cause notice was received by the applicant and the same was replied on 22/5/2012, which was received in my office on 24/5/2012. The show cause notice dated 22/5/2012 was issued as the earlier notice dated 5/5/2012 was not replied till that time. I say that the applicant was very much aware regarding the show cause noticed and the action taken. I therefore, deny the contention of the applicant that I had any malafide intention in again issuing show cause notice on 22/5/2012 or that notice could reach the applicant belatedly. I therefore, deny all vague and baseless contentions in that regard.”

29. It has also been brought to our notice that, a representative of applicant Mahyco made a false statement in the meeting, stating to have received only 920 packets of the seed while it is the case of the informant/ prosecution that, 45800 seed packets were supplied/ distributed by Mahyco before 28/4/2012. As such, there is prima facie material to indicate the applicants to have not complied with a requisition made by the informant in exercise of the powers under Section 13(1)(a) of the Seed (Control) Order, 2013. Moreover, whatever information was supplied by the applicants was prima facie found to be incorrect/ false. The said act prima facie constitutes offences punishable under Sections 7 and 9 of the E.C. Act, 1955. We are, therefore, not inclined to grant the applicants reliefs so far as regards offences under the Essential Commodities Act are concerned. In those days, number of crimes have been registered against Mahyco in various districts of Marathwada region and Vidarbha as well. Seriousness of the crimes is not felt now only due to passage of time.

30. We have carefully gone through the authorities relied on. We find all those pertain to offences alleged to have been committed under the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009. close reading of two of the four authorities relied on would indicate that, attention of the Judges deciding those matters was not

adverted to a fact that, Seed (Control) Order, 1983 was made in exercise of powers under Section 3 of the Essential Commodities Act. It has already been made clear hereinabove that the application is partly allowed so far as regards order taking cognizance of the offences under the Act of 2009. First of the judgments relied on pertain to violation of the mandate of Section 4(1) of the Act of 2009. In the second one, it has been observed that, the provisions of the Essential Commodities Act would not be applicable in view of the preamble of the Act of 2009 itself. It is reiterated that, Seed (Control) Order, 1983 appears to have been not brought to the notice of the Court. In the third case, a complaint was lodged by Fertilizer Inspector. Since it was neither filed by the Controller or any other officer authorised by him for that purpose, the said petition was allowed.

31. It is reiterated that, there is material to proceed against the applicants for offences punishable under Section 3 r/w 7 and Section 9 of the Essential Commodities Act. The application, therefore, partly succeeds in terms of the following order :

ORDER

- (i) The Criminal Application is partly allowed.
- (ii) The Criminal Application stands rejected so far as regards quashment of F.I.R. and consequential charge sheet filed for the

offences punishable under Sections 3, 9(1), 7(1)(a), (ii) of the Essential Commodities Act, 1955.

(iii) The Criminal Application is, however, allowed, setting aside the order of taking cognizance of offences under the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009.

(iv) The Criminal Application stands disposed of accordingly.

(v) Rule made absolute in above terms.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

After pronouncement of the judgment, learned counsel for the applicants prayed for continuation of the interim relief for six weeks.

Since it was admitted matter and there was an interim relief for long, the interim relief that was there earlier, to continue for six weeks.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-