

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO: 1604 OF 2023

Between:

1. Balaiah Nagaram, S/o Ramaiah, Aged about 32 years, Occ: Driver, R/o Kerelly Village, Dharur Mandal, Vikarabad District.
2. Shetti Shiva Kumar, S/o Shivanandam, Aged about 36 years, Occ: Business, R/o Dharur Village and Mandal, Vikarabad District.

...Petitioners/Accused

AND

1. THE STATE OF TELANGANA, Through Public Prosecutor, High Court for the State of Telangana At Hyderabad.
2. V.CHANDRA MOHAN, S/o Sri Ramalaxman, Aged about 64 years, Occ: RI Dharur Mandal, R/o Saroomnagar, Ranga Reddy District.

...Respondents

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to QUASH the proceedings in C.C.No.390 of 2022 on the file of Judicial First Class Magistrate, Vikarabad, at: Vikarabad as the same is untenable either on facts or under law.

I.A. NO: 1 OF 2023

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to STAY all further proceedings pursuant to C.C.No.390 of 2022 on the file of Judicial First Class Magistrate, Vikarabad, at Vikarabad including appearance of Petitioners pending disposal of main criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri GANESH CHELIMELLA, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and None Appeared for the Respondent No.1.

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.1604 of 2023

ORDER:

This criminal petition is filed by the petitioner/accused No.1 under Section 482 Cr.P.C, to quash the proceedings in C.C.No.390 of 2022 on the file of Judicial Magistrate of First Class, Vikarabad, wherein the petitioners were charged with the offences punishable under Sections 420 IPC and Section 7 of Essential Commodities Act.

2. The facts of the case are that on 29.03.2022 at about 1000 hrs the respondent No.2 came to police station, Dharur, along with three mediators about illegal transportation of PDS rice at Dharur village. SI of Police, Dharur and his staff were conducting vehicle checking at Dharur village and at that time stopped one suspicious vehicle DCM bearing No.AP 28 X 0943. On enquiry the driver of DCM disclosed his name as Nagaram Balaiah and found 151 bags of PDS rice in the DCM and the PDS rice mixed with dice each bag containing 45 kgs. The driver also said that the owner of Manjunatha Kirana shop by name Shetti Shiva Kumar was collecting PDS rice mixed with dice from the card holders from nearby villagers at Dharur mandal for Rs.10/- per one kg and selling the same to Kadtal Poultry farm for Rs.13/- per one kg for his own profits. On the orders of his owner the driver was loading the PDS rice and illegally transported from Dharur village to Kadtal. The seized total stock is approximately 6800 kgs and

handed over to MLS point, Vikarabad for safe custody. Thereafter the DCM was seized and handed over to the Dharur Police by attesting punch chits, and the complainant requested to take necessary action as per law. Aggrieved by the same, the petitioners filed the present criminal petition.

3. Heard Sri Ch.Ganesh, learned counsel appearing on behalf of petitioners, as well as Sri S. Ganesh, learned Assistant Public Prosecutor appearing on behalf of respondent No.1. Though notice was served on respondent No.2, none appeared.

4. Learned counsel for the petitioner would submit that after completion of investigation, charge sheet was filed and same was numbered as C.C.No.390 of 2022. During investigation, it did not reveal anything except the contentions of respondent No.2, and they gave explanation to Section 41-A Cr.P.C notice and later on a report submitted by Deputy Tahsildar (CS), the Additional Collector, Vikarabad District, taken on record with 6-A case No.A/67/CS/VKB/2022 and notice was issued on 06.04.2022 as per Section 6B of the Essential Commodities Act, to the petitioners/accused framing charges against them and the rice also was released levying penalty of Rs.5,000/- on the vehicle.

5. Despite receiving the order from Additional Collector, Vikarabad, the police had prepared charge sheet as petitioner had committed the offence under Section 420 IPC and Section 7 of

Essential Commodities Act. The reading of complaint or FIR does not constitute any ingredients of alleged offences. There is no fault of petitioners in transporting the rice bags, but unfortunately on the false complaint raised by the 2nd respondent, the police had implicated the petitioners in the said crime. The vehicle was already released and the stock was released to the owner and therefore there is no point in continuing the case against the petitioners as such prayed to quash the proceedings against them in C.C.No.390 of 2022.

6. Learned counsel for the petitioners would submit that the rice which is alleged to be PDS rice is tested by authorities and it is broken rice and the broken percent is recorded as 70% in the samples and the broken rice is not issued under PDS and further the vehicle is also released to the owner as per orders of Additional Collector and therefore there is no offence against these petitioners and prayed the Court to quash the proceedings.

7. On the other hand, learned Assistant Public Prosecutor filed written instructions and in the said instructions, it is said that investigation is completed and charge sheet was filed and the vehicle was released to the owners and the alleged PDS rice is not broken rice it is 70% broken rice and it was released to the owners as per the orders of Additional Collector.

8. Having regard to the rival submissions and material on record, the charge sheet averments shows that accused Nos.1 and 2

were indulged in clandestine business and they were selling PDS rice and they were transporting PDS rice illegally from Dharur village to Kadthal and they are selling for Rs.13/- per kg. Whereas the submissions of learned counsel for the petitioners and learned Assistant Public Prosecutor shows that the alleged PDS rice is broken rice and there is 70% broken rice and broken rice is not issued to PDS as such when the main allegation is that they are transporting PDS rice but they were transporting broken rice, therefore the allegations against the petitioners are baseless and continuation of the same does not serve any purpose and it is nothing but abuse of process of law.

9. In view of the same, the proceedings against the petitioner/accused No.1 in C.C.No.390 of 2022 on the file of Judicial Magistrate of First Class, Vikarabad, are hereby quashed.

10. Accordingly, the petition is partly allowed. Miscellaneous applications, if any pending, shall also stand closed.

//TRUE COPY//

SD/- V.KAVITHA
ASSISTANT REGISTRAR

[Signature]

SECTION OFFICER

To,

1. The Judicial First Class Magistrate, Vikarabad.
2. The Station House Officer, Dharur Police Station, Vikarabad District.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to Sri GANESH CHELIMELLA, Advocate [OPUC]
5. Two CD Copies

PSR

CHR

HIGH COURT

SKS,J

DATED:15/04/2024

ORDER

CRLP.No.1604 of 2023



**ALLOWING THE
CRIMINAL PETITION.**

⑧ CRR
6/5/24