



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

22 CRIMINAL APPLICATION NO. 4012 OF 2023

1. Mr. Sharokh Kersi Nikorawalla,
Age; 52 years, Occu. Business
R/o. 293 A Wing, Naperol Tower,
R.A. Kidwai Road, Wadala, Mumbai
2. Mrs. Villoo Sharokh Nikorawalla,
Age: 50 years, Occu. Business
R/o. 293 A Wing, Naperol Tower,
R.A. Kidwai Road, Wadala, Mumbai
3. Jehan Sharokh Nikorawalla
Age; 24 years, Occu.Business
R/o. 293 A Wing, Naperol Tower,
R.A. Kidwai Road, Wadala, Mumbai
4. Haftaanbad Sharokh Nikorawalla
Age; 20 years, Occu.Business
R/o. 293 A Wing, Naperol Tower,
R.A. Kidwai Road, Wadala, Mumbai

....APPLICANTS

VERSUS

The State of Maharashtra,
Through Shri. S. V. Khedikar,
Inspector of Legal Metrology, Shelu
Inspector Shelu, Dist. Parbhani.

....RESPONDENT

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Mr. C. C. Deshpande h/for Mr. Govind M. Sharma and Mr. Manish
N. Ghamanadi, Advocate for the Applicants
Ms. Chaitali Chaudhari-Kutti, APP for the Respondent-State

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 10.03.2025

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. With consent of the parties heard finally at the stage of admission.
2. Heard Mr. Deshpande, the learned counsel appearing for the Applicants and Ms. Chaitali Chaudhari-Kutti, APP for the Respondent -State.
3. By the present Application under Section 482 of Cr.PC., the Applicants have prayed for quash and set aside Summary Criminal Case No.155 of 2022 pending on the file of learned JMFC, Jintur Dist. Parbhani.
4. It is a matter of record that, on 22.03.2022, the Complainant Mr. Sachin V. Khedikar, the Inspector of legal Metrology Department Dist. Parbhani filed a complaint alleging that, while of inspection of establishment of accused no. 2 M/s Shriram Traders Proprietor Ramgopal Pandurang Nawal, Main Road, Bori. Tq. Jintur, Dist. Parbhani, two 250-gram packages of the "Amino Acid" -based "Excess" micro fertilizer mixture were found without any contact information of consumer complaints, such as the names of persons or offices to be contacted also, the "customer care number" is not mentioned on the package. The package does not include the state

name ,PIN Code and address. Therefore, it is an offence under Section 18(1) of Legal Metrology Act, 2009 and relative penal Section 36 read with Sub-Rule (2) of Sub Rule (s) and 6 and Sub Rule (1) of Rule (s) 10 of Legal Metrology (Packaged commodities rules), 2011.

5. On 22.03.2022, the learned JMFC passed the order in S.C.C. No.155 of 2022 and issued summons against the Applicants/ accused. Being aggrieved by said order, the Applicants have invoked jurisdiction of this Court under Section 482 of Cr.PC.

6. The learned counsel for the Applicants canvassed that, the Applicants are Managing Directors of M/s Universal Speciality Chemicals Pvt., Ltd., which manufactured seized product. The Non-applicant has not disclosed about commission of alleged offence at the hands of the Applicants and they are responsible for day to day affairs of said product. It is further canvassed that, M/s Universal Speciality Chemical Private Limited nominated Mr. Sharokh Nikorawalla as a Director, within the meaning of Section 49 Sub-Clause 2 of the Legal Metrology Act, 2009 and while filing the complaint, the Non-applicant/ complainant has not alleged that the Applicants have committed offence. The averments made in the complaint does not satisfy requirements provided under Section 49 (1) (a) (ii) of the Legal Metrology Act to implicate the Applicants/ Managing Directors of the manufacturing company as an

accused. Therefore, the complaint filed by the Non-applicant is illegal, bad in law, hence, prayed for quash and set aside.

7. To buttress these submissions, the learned counsel for the Applicants placed reliance on the judgment dated 03.10.2022 passed by this Court at Co-ordinate Bench, Nagpur in Cri. Application No.829 of 2015, wherein it is held as under:

“It reveals that besides mentioning the name of the company in generalized form it has been pleaded that accused is either an owner or partner or director of company. Absolutely, there are no specifications about the role and responsibility of the applicants regarding alleged offence. In absence of essential ingredients, the prosecution cannot be continued in view of above referred decision neither the role of the managing director or any of the director has been specified in complaint. It is pertinent to note that, even the name of the Director have not been stated in the complaint.”

8. It further relied on Judgment dated 18.10.2024 passed by this Court in Cri. Application No.4193 of 2019 ***Mr. Ramchandra Kaundinya Vinnakota, Director of M/s Syngenta India Limited Vs. The State of Maharashtra***, wherein it was held that, the complainant neither impleaded the company who manufactured the commodities nor impleaded the directors of the company as an accused. Nonetheless, there is no averment as to show how the Applicant/accused is responsible for business and production of the company as well as packaging of its product/commodities. No specific role is attributed to

the applicant in packaging of the commodities that are subject of the complaint. Therefore, the sole Director of the company is not liable for the prosecution of an offence committed by the company.

9. In the case in hand, it prima facie appears that, the Non-applicant/complainant instituted the complaint for contravention of Section 18(1) of Legal Metrology Act, 2009 and relative penal Section 36 read with Sub-Rule (2) of Sub Rule (s) and 6 and Sub Rule (1) of Rule (s) 10 of Legal Metrology (Packaged commodities rules), 2011. It is alleged that, on 03.09.2020, he inspected establishment of Accused no. 2 M/s Shriram Traders Proprietor Ramgopal Pandurang Nawal and during course of inspection, he found that two packages of “Amino Acid” based “Excess” micro fertilizer mixture, net contain 250 gram but name of the persons or office to whom contact can be made not displayed, no consumer complaint number and “customer care number” displayed on the package also there were no name of State, Pin Code number and manufacturing address found on packages. The accused No. 1 M/s Universal Speciality Chemical Private Limited is the manufacturing company of the seized commodities. The manufacturing company M/s Universal Speciality Chemical Private Limited impleaded as an accused through it’s Director Mr. Sharokh Nikorawalla. The accused No.2 M/s Shriram Traders, through Proprietor Ramgopal Pandurang Nawal

impleaded an accused from whose custody commodities are seized.

10. The Applicant No.2 Mrs. Viloo Sharokh Nikorawalla, 3. Mr. Jehan Sharokh Nikorawalla and 4 Mr. Haftaanbad Sharokh Nikorawalla are not impleaded being accused to the complaint for contravention of provisions of Legal Metrology Act. Further, the learned Judicial Magistrate has not issued process against the Applicants Nos. 2, 3 and 4 because they are not impleaded as an accused for contravention of Legal Metrology Act and Rules. Therefore, to my view, the Petitioner Nos. 2, 3 and 4 are not aggrieved by said complaint and order of issuance of process.

11. Nonetheless, the present Petitioner Sharokh Kersi Nikorawalla implicated as an accused being Director of the accused company M/s Universal Speciality Chemical Private Limited for contravention of provisions of Legal Metrology Act. The said complaint is the Criminal prosecution, therefore, the manufacturing company is found guilty in this case, the company having legal entity cannot be sentenced but it's Director will require to suffer sentence.

12. In the case in hand, the Petitioner No.1 is being prosecuted as a director of the company, not in his personal capacity. Therefore, to my mind, ratios laid down in Judgments, *cited supra*, are not applicable

to the facts and circumstances of the case. Therefore, I am not inclined to entertained this application. Accordingly, it is dismissed. Rule is discharged.

[Y. G. KHOBRADE, J.]

HRJadhav