



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2144 OF 2024

1. Prakashji S/o Dhanrajji Totala,
Age: 53 years, Occu. Business,.
2. Pawan S/o Prakashji Totala,
Age: 28 years, Occu. Business,
Both R/o Near Maruti Mandir,
Balbhimnagar, Beed, Tq. Dist. Beed. **... Applicants**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Ahmednagar Camp,
Tal. District Ahmednagar.
2. Ranjit Popat Jadhav
Age: 34 Yrs, Occu: Service as
Police Constable Local Crime Branch,
Ahmednagar.
R/o Local Crime Branch,
Ahmednagar. Tq. Dist. Ahmednagar. **... Respondents**

...

Mr. Shrikant G. Kawade, Advocate for Applicants.

Mr. V. K. Kotecha, APP for Respondents.

...

CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 21st April, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashing of the report (for short the “FIR”) bearing Crime No.400 of 2023, dated 27th June, 2023, registered with Ahmednagar Camp Police Station, District Ahmednagar, for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 and under Section 34 of the Indian Penal Code, 1860 and the consequential charge-sheet as well as the proceedings in R.C.C. No.879 of 2024, pending in the Court of learned Additional Chief Judicial Magistrate, Ahmednagar.

3 The informant averred in the report that he is serving as a Police Constable in the Crime Branch Ahmednagar since last five years. On 27th June, 2023, when the informant was present in the Local Crime Branch alongwith ASI Bhauseheb Govind Kale, Police Head Constable Manohar Sitaram Gosavi and Police Naik Sachin Dattatray Adbal, Police Inspector Dinesh Aher called them into his chamber and informed that a reliable piece of information has been received from a confidential informant. It was stated that applicant No.1 had sent an Ashok Leyland 14-tyre truck bearing registration

No.MH-16-CD-7079, loaded with ration rice, from Beed towards Panvel for illegal sale in the black market. It was conveyed that if a trap was laid at the closed Cantonment toll plaza on Beed Road, Ahmednagar, the said truck could be apprehended. Accordingly, two *Panchas* were called. They were informed about the said trap. After obtaining their consent, the informant and other officials organized a raid, carrying a laptop, printer and other articles. Thereafter, they proceeded according to the plan in a private vehicle. At around 11:30 am, they saw a 14-tyre truck coming from Beed side. When they signaled the driver of the truck to stop, he halted the truck. The informant further averred that they introduced *Panchas* to the driver of the truck and asked the driver his name and address. The driver of the truck stated his name as Krishna Govind Dhakane and the person sitting with him stated his name as Vivek Rambhau Dhakane, both are residents of Dhangarwadi, Dohithan, Taluka Ashti, District Beed. Upon questioning the driver of the truck about the contents of the truck, he informed that it contained 600 bags of rice. In the presence of *Panchas*, all the raiding party members checked the truck and assured that there are 600 plastic bags of the rice in the said truck. When the driver of the truck was asked to show the receipts of the said rice, he avoided to give the answer. When the driver of the truck was further questioned after gaining his confidence, he revealed that the truck is owned by him and the rice belonged to applicant Nos.1 and 2. The

driver of the truck further stated that the rice was loaded from a tin shed situated in Mahesh Gruh Udyog, MIDC area, Beed and that it was ration rice from the Government Fair Price Distribution Scheme. He disclosed that the rice had been polished at the shed and repacked into yellow plastic bags of 50 kg each before being loaded into the truck and they were transporting it to Navkar Yard, Panvel. No valid bills or documents were found with them. 600 bags of rice of Rs.6,45,000/-, Ashok Leyland 14-tyre truck of Rs.50,00,000/- and two mobile handsets of Rs.10,000/- each were seized and report was lodged against the driver of the said truck, cleaner namely Vivek Rambhau Dhakane as well as the present applicants.

4 The learned counsel for the applicants submits that the applicants are falsely implicated in the crime. There are general, vague and omnibus allegations against them. No specific role or overt act is attributed to the applicants in the alleged commission of the crime. There is no cogent or acceptable evidence against the applicants. He submitted that compelling the applicants to face trial on such allegations would amount to an abuse of the process of the Court. He lastly prayed to allow the application by quashing the report and the proceedings.

5 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in a serious offence concerning the illegal transportation and black-marketing of ration rice. He submitted that the names of the applicants are specifically mentioned in the report and their role has been disclosed by the co-accused. The offence is of grave nature. He lastly prayed to reject the application.

6 Here, it is relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable Supreme Court held thus:-

“34. it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the

case as well as the materials collected in the course of investigation....”

7 A reference also can be made to the judgment in the case of **CBI Vs. Aryan Singh**, reported in, **2023 SCC Online SC 379**, in which the Honourable Supreme Court held as under:-

“Para 10... As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr. P.C., the Court is not required to conduct the mini trial.”

8 We have perused the report and the charge-sheet, particularly, the report and the statements of witnesses. From the statements of witnesses and the report, it is revealed that the driver of the truck was carrying 600 gunny bags of rice in the Ashok Leyland 14-tyre truck bearing registration No.MH-16-CD-7079. The statement of the person from whom the rice was purchased by applicant No.1 is not recorded. It was rice of public distribution, but no such documentary evidence is supplied or order etc. is collected by the investigating officer during the investigation.

9 In the case of State of **Haryana and Ors Vs. Ch. Bhajan Lal and Ors**, reported in, **AIR 1992 SCC 335**, the Honourable

Supreme Court has clarified and held that when no *prima-facie* offence is made out from the perusal of FIR as well as material collected during the investigation showing cognizable offence against the accused, he cannot be compelled to face the trial. Thus, the applicants cannot be called upon to face the trial on such material, which does not establish the essential ingredients of Sections 3 and 7 of the Essential Commodities Act, 1955. Considering all these aspects together, we are of the view that if the applicants are directed to face the trial, it would certainly be an abuse of the process of Court. We are therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice and to prevent the abuse of the process of Court. The application, therefore, deserves to be allowed. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. Crime No.400 of 2023, dated 27th June, 2023, registered with Ahmednagar Camp Police Station, District Ahmednagar, for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 and under Section 34 of the Indian Penal Code, 1860 and the consequential charge-sheet as

well as the proceedings in R.C.C. No.879 of 2024,
pending in the Court of learned Additional Chief
Judicial Magistrate, Ahmednagar, stands quashed as
against both the applicants.

nga

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]