IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY ,THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos : 4545, 5009, 5012, 5015, 5041 and 5064 OF 2019

Crl.Petition No. 4545 of 2019

Between:

Radha Krishnan Vijay Krishnan, Sy. No.696, Gudla Pochampally Village, Medchal-Malkanjgiri District ...**PETITIONER/ACCUSED**

AND

State of Telangana, Rep by P.P. High Court at Hyderabad Through District Legal Metrology Officer, Medchal- Malkanjgiri District

...**RESPONDENT**

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 S.T.C. No. 46 of 2019, of the file of the Honourable Additional XXII Metropolitan Magistrate at Medchal District, against the Petitioner/Accused.

I.A. NO: 1 OF 2019

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 grant stay of all further proceedings in S.T.C. No. 46 of 2019, of the file of the Honourable Additional XXII Metropolitan Magistrate at Medchal District, including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice

I.A. NO: 1 OF 2021

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 the proceedings qua the Petitioner pending before the XXII Additional Metropolitan Magistrate, Medchal in S.T.C. No. 46 of2019

I.A. NO: 2 OF 2021

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 recalling of the Non-Bailable Warrants against the petitioner issued by the XXII Additional Metropolitan Magistrate Medchal in S.T.C. No.46/2019.

I.A. NO: 3 OF 2021

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 extend the interim orders dated. 22.04.2021 in CRLP.No. 4545/2019 until further orders

I.A. NO: 4 OF 2021

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 receive the FORM No. DIR-12 as a part of Criminal Petition No. 4545/2019

I.A. NO: 2 OF 2022

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 extend the interim orders dated. 22/06/2022, in Crl.P.No. 4545 of 2019 until further Order

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJESH MADDY ,Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent.

CRIMINAL PETITION NO: 5009 OF 2019

Between:

R.Anil Kumar Reddy, Aged about 36 years, Senior Manager M/s Instakrt Services Pvt. Ltd.. Sy. No.696, Gudla Pochampallv Village, Medchal- Malkanjgiri District R/o B 28, Prakruthinivas, Opp. AFA Dundigal, Annaram, Gummadidala, Sanga Reddy.

...PETITIONER/ACCUSED-7

AND

1. State of Telangana , Rep. by its Public Prosecutor, High Court at Hyderabad.
2. The District Legal Metrology Officer, Medchal- Malkanjgiri District

...RESPONDENT/ 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 S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District, against the Petitioner/Accused

I.A. NO: 2 OF 2019

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 grant stay of all further proceedings in S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District, including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice

I.A. NO: 3 OF 2021

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 extend the interim orders dtd: 22/4/2021, in CrlP No.5009/2019 until further orders

I.A. NO: 1 OF 2020

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 extend the interim orders granted by this Hon'ble Court on 08.11.2019 in I.A. No. 3 of 2019 of Crl.P.No. 5009 of 2019 until further orders

I.A. NO: 2 OF 2022

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 extend the interim Orders dated 22.06.2022, in CRLP No. 5009 of 201 until further Order

I.A. NO: 2 OF 2021

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 recalling of the Non-Bailable Warrants against the petitioner issued by the XXII Additional Metropolitan Magistrate Medchal in S.T.C. No.46/2019

I.A. NO: 3 OF 2019

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 extend the interim orders granted by this Hon'ble Court on 23.08.2019 in IA.No.2 of 2019 of Crl.P.No. 5009 of 2019 until further orders

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJESH MADDY ,Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1

CRIMINAL PETITION NO: 5012 OF 2019

Between:

Abhy Maheswari, Aged about 42 years, Senior Manager M/s Instakrt Services Pvt. Ltd., Sy. No.696, Gudla Pochampally Village,Medchal- Malkanjgiri District R/o H.NO.469, Malviya Nagar, Sanganer, Jaipur-302011.

...PETITIONER/ACCUSED - 5

AND

1. State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. The District Legal Metrology Officer, Medchal- Malkanjgiri 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 S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District, against the Petitioner/Accused .

I.A. NO: 2 OF 2022

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 extend the interim orders dated 22/06/2022, in CRLP No. 512 of 2019 until further orders and pass

I.A. NO: 2 OF 2019

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 grant stay of all further proceedings in S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice and pass

I.A. NO: 3 OF 2021

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 extend the interim orders dtd: 22/4/2021, in CrlP No.5012/2019 granted until further orders and pass

I.A. NO: 2 OF 2021

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 recalling of the Non-Bailable Warrants against the Petitioner issued by the XXII Additional Metropolitan Magistrate, Medchal in S.T.C. No. 46 of 2019 and pass

I.A. NO: 1 OF 2020

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 extend the interim orders granted by this Hon'ble Court on 08.11.2019 in I.A. No. 3 of 2019 of Crl.P.No. 5012 of 2019 until further orders and to pass

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJESH MADDY ,Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1.

CRIMINAL PETITION NO: 5015 OF 2019

Between:

Ashish Kumar Gupta, Aged about 46 years, Occ. Director, M/s Instakrt Services Pvt. Ltd.,Sy. No.696, Gudla Pochampally Village,Medchal- Malkanjgiri District R/o A-02, New Gokul Plaza CHS Ltd, Thakur Complex, Kandivali (East), Mumbai, Maharastra - 400101. **...PETITIONER/ACCUSED -6**

AND

1. State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. The District Legal Metrology Officer, Medchal- Malkanjgiri District

...RESPONDENT/ 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 S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District, against the Petitioner/ Accused

I.A. NO: 3 OF 2021

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 extend the interim orders dtd: 22/4/2021, in CrlP No.5015/2019 until further orders .

I.A. NO: 2 OF 2019

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 grant stay of all further proceedings in S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice and pass

I.A. NO: 2 OF 2022

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 extend the interim orders dated 22.06.2022, in CRLP No. 5015 of 2019 until further orders and pass

I.A. NO: 2 OF 2021

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 recalling of the Non-Bailable Warrants against the petitioner issued by the XXII Additional Metropolitan Magistrate Medchal in S.T.C. No.46/2019 and pass

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJESH MADDY ,Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 .

CRIMINAL PETITION NO: 5041 OF 2019

Between:

Dinesh Varma, Aged about 49 years, Occ. Director, M/s INstakart Services Pvt. Ltd, Sy. No.696, Gudla Pochampally Village, Medchal- Malkanjgiri District R/o 145, SF, Sector 45, Gurgaon-120003, H.R. **...PETITIONER/ACCUSED-4**

AND

1. State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. The District Legal Metrology Officer, Medchal- Malkanjgiri District

...RESPONDENT/ 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 S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District, against the Petitioner/Accused

I.A. NO: 2 OF 2022

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 extend the interim Orders dated 22.06.2022, in CRLP No. 5041 of 2019 until further Order and pass

I.A. NO: 3 OF 2021

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 extend the interim orders dated 22/04/2021 in Crl.P.No. 5041 of 2019 until further orders and pass such other order or orders as deem fit and proper in the interest of justice.

I.A. NO: 2 OF 2019

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 grant stay of all further proceedings in S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice

I.A. NO: 2 OF 2021

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 recalling of the Non-Bailable Warrants against the Petitioner issued by the XXII Additional Metropolitan Magistrate, Medchalin S.T.C. No. 46 of 2019 and to pass

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJESH MADDY ,Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1

CRIMINAL PETITION NO: 5064 OF 2019

Between:

Nishant Vermon, Aged about 39 years. Managing Director, M/s Instakrt Services Pvt. Ltd.. Sy. No.696. Gudla Pochampallc Village, Medchal- Malkanjgiri District R/o Tower No.9, Flat No.702. Golf Course Road, Near IBIS Hotel. Sector-53, Sikanderpur, Haryana-I 220002.

...PETITIONER/ACCUSED-2

AND

1. State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. The District Legal Metrology Officer, Medchal- Malkanjgiri District.

...RESPONDENT/ 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 S.T.C. No. 46 of 2019, of the tile of the Honourable XXII Metropolitan Magistrate at Medchal District, against the Petitioner/Accused.

I.A. NO: 4 OF 2021

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 receive the FORM No. DIR-12 as a part of Criminal Petition No. 5064/2019 a

I.A. NO: 3 OF 2021

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 extend the interim orders dtd: 22/4/2021, in CrlP No.5064/2019 until further orders

I.A. NO: 2 OF 2022

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 extend the interim Orders dated 22.06.2022, in CRI,P No. 5064 of 2019 until further Order arid pass

I.A. NO: 2 OF 2019

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 grant stay of all further proceedings in S.T.C. No. 46 of 2019, of the file of the Honourable XXII Metropolitan Magistrate at Medchal District including the appearance of the Accused till the disposal of the Main Quash Petition in the interest of the justice and pass

I.A. NO: 2 OF 2021

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 recalling of the Non-Bailable Warrants against the petitioner issued by the XXII Additional Metropolitan Magistrate Medchal in S.T.C. No.46/2019 and pass

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAJESH MADDY ,Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 .

The Court made the following COMMON ORDER.

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.4545, 5009, 5012, 5015, 5041 and 5064 OF 2019

COMMON JUDGMENT:

1. Criminal Petition No. 4545 of 2019 is filed by Accused No.3, Criminal Petition No. 5009 of 2019 is filed by Accused No. 7, Criminal Petition No.5012 of 2019 is filed by A5, Criminal Petition No.5015 of 2019 is filed by A6, Criminal Petition No.5041 of 2019 is filed by A4, and Criminal Petition No.5064 of 2019 is filed by A2, invoking Section 482 of the Cr.P.C, seeking quashing of proceedings in S.T.C. No. 46 of 2019 pending on the file of XXII Metropolitan Magistrate, Medchal.

2. Since all the Criminal Petitions are questioning the proceedings against them in the same case, i.e., STC No.46 of 2019, all the petitions are disposed off by way of this Common Judgment.

3. A complaint was filed by the District Legal Metrology Officer, Legal Metrology, who is an officer appointed under S.14 of the Legal Metrology Act, 2009 (hereinafter, "the Act") and is an authorized officer to file the complaint against the Accused under Rule 28 of the A.P Legal Metrology (Enforcement) Rules, 2011, by virtue of the General Authorization issued by the Controller, Legal Metrology, AP, Hyderabad, vide G.O.Ms. No. 10 CA, F&CS (CS-III) Dept., dated 1.4.2011, read with head office Memo No. 6950/T1/2011-3 dated 10.5.2012.

4. The complaint in S.T.C. No. 46 of 2019 has been filed against Accused (A1) (Managing Director of M/s Redington India Ltd); A2 (Managing Director of M/s Instakart Services Pvt. Ltd); A3, A4, A5, and A6 (the Directors of M/s Instakart Services Pvt. Ltd); and A7 (Senior Manager and Person Incharge of M/s Instakart Services Pvt. Ltd), alleging contravention of Sections 18 and 36 of the Act, and Rule 4, Rule 6(2), and Rule 18(1) of the Legal Metrology (Packaged Commodities) Rules, 2011 (hereinafter, "the Rules, 2011").

5. The genesis of the complaint is the inspection conducted by the District Legal Metrology Officer on 3.7.2018, at about 5:30 pm in the trading premises of M/s Instakart Services Pvt Ltd, Survey No. 696, Gundla Pochampally Village, Medchal-Malkajgiri District. At the time of inspection, A7 was present and conducting business transactions in the said premises. The inspection revealed that A7 possessed, displayed, and exposed for sale 36 retail packages of "MSi" Notebook-10P6, GL638RC262IN, imported by M/s Redington Ltd., "Redington House," Centre Point Industrial Estate, Chennai, India, and the said packages did not bear the statutory declaration of the person in-charge or office address for consumer complaints. Hence, it was concluded that the packages violated Rule 4, Rule 6(2), and Rule 18(1) of the Rules, 2011. Further, the accused, by possessing and displaying the packages for sale in their trading premises, thereby contravened

Section 18(1) of the Act r/w Rule 6(2) of the Rules, 2011, and the same is punishable under Section 36(1) of the Act.

6. During the inspection, the District Legal Metrology Officer-P Satyanarayana, seized 2 defective packages from A7, out of the 36, and the remaining 34 packages were kept under safe custody in the premises under S.15 of the Act, under the cover of a panchanama in the presence of mediators LWs 3 and 4. A copy of the same was handed over to A7 on the spot with proper acknowledgment.

7. The complaint also specifies that, prior to the filing of the complaint, Notice No. 144/PC/2018-19 dated 3.7.2018 was served on the Company-M/s Instakart, through an e-mail. The Company replied to the notice on 19.12.2018, stating that the seizure report had already been sent to the concerned Brand/Seller/Manufacturer, and that in terms of Rule 18(1) of the Rules, 2011, the concerned Brand/Seller/Manufacturer is responsible. The Company also requested the withdrawal of the notice and for no further action to be taken against the Company and its Directors. The Company's request was rejected vide Office Letter No. 142/PC/2018-19 dated 26.12.2018. Thereafter, the complaint was filed in the Court.

8. Learned Senior Counsel appearing on behalf of the petitioners submits that:

1) The petitioners are arrayed as accused, making them vicariously liable on behalf of M/s Instakart Services Pvt. Ltd. However, the company is not made as an accused, as such, the question of prosecuting the petitioners does not arise.

2) M/s Instakart Services Pvt. Ltd is a logistic company, which acts as a transporter or courier in between manufacturer and the purchaser of the property. The petitioners have nothing to do with the manufacturing process, as such, none of the penal provisions of the Act are attracted.

9. On the other hand, learned Public Prosecutor appearing on behalf of the Legal Metrology Officer/complainant would submit that Section 18 of the Act, clearly mentions the word 'deliver'. Once it is admitted that the petitioners, who are the Directors of the company, are involved in the 'delivery' of the goods, the violations of the Act are attracted.

10. The Legal Metrology Act was enacted in the year 2010, to enforce the standards of weight and measures, regulate trade and commerce in weights, measures and other goods, which are distributed by weight, measure or number and for matters connected with the issues which are specifically mentioned under the provisions of the Act.

11. The violations, as alleged in the complaint, are under Sections 18 and 36 of the Act, and under Rules 4, 6(2) and 18(1) of the Rules,

2011. For the sake of convenience, Section 18 and 2(l) of the Act are extracted hereunder:

> "18. Declarations on pre-packaged commodities.—
> (1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.
> (2) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed."

> "2(l) "pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity;

12. Section 18 lays down strict requirements for the sale and advertisement of pre-packaged commodities to ensure transparency and consumer protection. It prohibits any person from manufacturing, packing, selling, importing, distributing, delivering, offering, exposing, or possessing for sale any pre-packaged commodity unless it complies with prescribed standards. These standards include ensuring that the package contains a specified quantity or number of the commodity and that it clearly displays all mandatory declarations and particulars in the prescribed manner. Additionally, if an advertisement mentions the retail sale price of a pre-packaged commodity, it must also include a declaration regarding the net quantity or number of items in the package, following the prescribed format. These provisions are designed to prevent misleading practices, ensure uniformity in trade,

and protect consumer interests. Section 18 of the Act deals with the pre-packaged commodities, and pre-packaged commodity has been defined under Section 2(l) of the Act, as extracted above. Since the product is packed by the manufacturer in the absence of the purchaser, the details of the package has to be mentioned for a purchaser to know about the product.

13. Section 18 of the Act uses specific terminology to regulate pre-packaged commodities at each stage of their commercial lifecycle. Section 18 applies, among others, to manufacturers or sellers of the product: The following group of words used in Section 18 of the Act, have to be understood, basing on the intent of the legislature in enacting the law.

1) Manufacture: Involves producing or assembling a product that becomes a commodity ready for sale. The term 'Manufacturer' is defined under Section 2(i) of the Act.

2) Pack: Refers to placing a product into a package, by the manufacturer/Seller, that complies with legal metrology standards.

3) Sell: Involves the transfer of ownership in exchange for money or other consideration.

4) "import" with its grammatical variations and cognate expressions, means bringing into India from a place outside India.

5) Distribute: Covers the supply of such commodities to retailers, wholesalers, other businesses for further sale to consumers or to the consumers directly through online sale.

6) Deliver: Encompasses physically handing over or transporting the product to buyers, retailers, or distributors, including through couriers and e-commerce logistics.

7) Offer: Involves the process of making the product available for sale or trade.

8) Expose (for sale): Refers to displaying a product in a way that signals its availability for purchase, whether on store shelves, in showcases, or through online listings.]

9) Possess (for sale): Means having control or custody of a pre-packaged commodity with the intent to sell, covering retailers, wholesalers and distributors.

14. The Act ensures that every stage of a commodity's commercial lifecycle, from manufacture to final sale, is subject to legal scrutiny, which helps prevent deceptive practices and protects consumer interests.

15. The petitioners are Managing Director/Directors/Manager of M/s.Instakart Services Pvt. Ltd. The agreement, between M/s. Instakart Services Pvt. Ltd. and Flipkart Internet Private Limited, the company selling the product, is an agreement for logistic services. The

Exhibit A to the agreement specifies the services to be executed by the company, M/s Instakart, which include:

i) Pickup of shipments from the company's warehouses.
ii) COD/PP (Cash on Delivery/Prepaid) facility across all pin codes served by Instakart
for delivery.
iii) Reverse pickup from end customers.
iv) ERP integration for better transaction visibility and monitoring

16. Instakart's services are for providing logistic services and not amenable to the provisions under the Legal Metrology Act. Section 18 of the Act applies to the entities directly involved in the process of manufacturing, packing, selling, importing or distributing, pre-packed commodities and none of these include the logistic providers. The job of M/s.Instakart is only to transport the goods, and it is, in no manner, involved in the labeling or packing the goods sent by the manufacturer. The consumers place their orders on Flipkart, and the manufacturers, distributers, or retailers deliver the products to them through the logistics providers, such as M/s. Instakart Services.

17. The term 'deliver' used in Section 18 of the Act refers to the act of transferring the goods as part of sale. The logistics company, M/s.Instakart is not involved in the sale of the goods. It is either Flipkart or the manufacturer who sells the goods. The logistics company, i.e., M/s.Instakart, confines its services to providing transport of the goods/products. For the said reason, the logistics

company will not fall within the term 'deliver' as mentioned in Section 18 of the Act.

18. It is not the case of the complainant that the petitioners, who are part of M/s.Instakart Services Private Limited are in any manner involved with the process of labeling or packing the commodity. The goods found in the warehouses of M/s.Instakart are meant for transportation. Nowhere in the complaint, has the complainant mentioned, that the company has anything to do with the product, other than to transport them, in accordance with the agreement with Flipkart.

19. The petitioners are also alleged of contravening Rule 4, Rule 6(2), and Rule 18(1) of the Rules, 2011. Rule 4 reads as follows:

> *"4. Regulation for pre-packing and sale etc. of commodities in packaged form. - On and from the commencement of these rules, no person shall pre-pack or cause or permit to be pre-packed any commodity for sale, distribution or delivery unless the package in which the commodity is pre-packed, a label is securely affixed and such declarations as are required to be made under these rules.*
>
> *Explanation.-The existence of packages without the declaration of retail sale price within the manufacturer's premises shall not be construed as a violation of these rules and it shall be ensured that all packages leaving the premises of manufacturer for their destination shall have declaration of retail sale price on them as required in this rule."*

20. From a reading of Rule 4 and the explanation thereto, indicates that, it is for the manufacturer to label the product, giving the details, which are required to be mentioned in accordance with the Legal

Metrology Act, 2009. The logistics companies are not covered under Rule 4 since they do not engage, either in pre-packing the product by the manufacturer, or in labeling the contents on the goods packed by the manufacturer. The duty of the logistics company is confined to transporting the goods, and nowhere is it alleged in the complaint that the petitioners' company, M/s.Instakart Services Private Limited is involved in the pre-packing process.

21. Sub-Rule 2 of Rule 6 of the Rules, 2011 reads as follows:

> *"**6.Declaration to be made on every package:** (1)(a) the name and address of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and packer and for any imported package the name and address of the importer shall be mentioned on every package.*
> .....
> .....
> *(2) Every package shall bear the name, address, telephone number, e mail address, if available, of the person who can be or the office which can be, contacted, in case of consumer complaints."*

22. The Rule mandates displaying of name, telephone number, or e-mail numbers, if available of the person, who can be contacted in case of consumer complaints. Since the logistics company is only involved in the process of transportation, the question of making the logistics company liable for not finding label on the packages meant for transport, with said details of name and address etc., does not arise.

23. Sub-Rule 1 of Rule 18 of the Rules, 2011 reads as follows:

> ***"18. Provisions relating to wholesale dealer and retail dealers:***
> *(1) No wholesale dealer or retail dealer or importer shall sell, distribute, deliver, display or store for sale any commodity in the packaged form unless the package complies with in all respects, the provisions of the Act and these rules."*

24. From a reading of Rule 18 of the Rules, 2011, extracted above, it is clear that the Rule applies to wholesale dealer and retail dealers. Even according to the complainant, the logistics company is neither a retailer, nor a wholesaler. For the said reasons, Rule 18 does not apply to the logistics company, unless it is proved that the logistics company had undertaken the role of a dealer of the product either by retail or wholesale. No such allegation is made in the complaint.

25. Notice was sent to M/s.Instakart Services Private Limited through an e-mail. The notice of the complainant does not refer to the names of any of these petitioners. According to the notice addressed by the complainant, the company, M/s.Instakart, is only mentioned. Further, no role is specifically attributed to any of the petitioners herein. In the absence of making the company as an accused, prosecuting the petitioners is erroneous.

26. In **MD Castrol (India) Limited v. State of Karnataka**[1], the Hon'ble Supreme Court quashed criminal proceedings against the Managing Director due to the absence of any specific allegations about his responsibility in the company's business or operations.

[1] (2018) 17 SCC 275

27. In **Himanshu v. B.Shivamurthy**[2], the Hon'ble Supreme Court held that prosecuting the directors of the company, without implicating the 'company' is unsustainable.

28. The provisions of Legal Metrology Act and Rules thereunder, are not attracted in case of the logistics company, M/s.Instakart. Further, the company M/s.Instakart Services Private Limited is not made an accused. For both reasons, the Criminal Petitions deserve to be allowed.

29. In the result, the proceedings against the petitioners/Accused in STC No.46 of 2019 on the file of XXII Metropolitan Magistrate at Medchal, are hereby quashed.

30. Accordingly, all Criminal Petitions are allowed.

Sd/- MOHD. ISMAIL
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The XXII Metropolitan Magistrate at Medchal District.
2. The District Legal Metrology Officer, Medchal- Malkanjgiri District
3. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad. (OUT)
4. One CC to SRI. RAJESH MADDY Advocate [OPUC]
5. Two CD Copies

kul

[2] (2019) 3 SCC 797

HIGH COURT

DATED:21/02/2025



COMMON ORDER

CRIMINAL PETITION Nos : 4545, 5009, 5012, 5015, 5041 and 5064 OF 2019

ALLOWING THE ALL CRL.PETITIONS

(8)

kpr

21/4/25