

2025:PHHC:064422



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

126

CRM-M-25179-2025

Date of decision: May 14, 2025

M/S SUMA FOODS PVT. LTD. AND OTHERS

...Petitioners

Versus

DIRECTORATE OF ENFORCEMENT

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vikram Chaudhri, Sr. Advocate (through VC) with
Mr. Keshavam Chaudhari, Advocate and
Ms. Diya Bhagwan, Advocate
for the petitioner.

Mr. Satyapal Jain, Sr. Advocate (Additional Solicitor General)
(Through VC)
with Ms. Meghna Malik, Advocate
for respondent-ED.

MANJARI NEHRU KAUL, J.

1. The instant petition has been filed under Section 528 of BNSS, 2023 (corresponding to Section 482 Cr.P.C.) for quashing/setting aside of order dated 08.04.2025 (Annexure P-7) passed by learned Special Court, Panchkula in Complaint Case No.COMA/04/2025. Vide impugned order, the learned Special Court took cognizance of the prosecution complaint filed by Directorate of Enforcement and issued process against the petitioners.
2. Learned Senior counsel appearing on behalf of the petitioners submits that the investigation was concluded and the prosecution complaint was filed by Directorate of Enforcement on 07.02.2025. In view of the fact that the BNSS came into force w.e.f. 01.07.2024, it is contended that the present proceedings are governed by the provisions of the said enactment.
3. It is further submitted that the impugned order suffers from a fundamental procedural infirmity inasmuch as the learned Special Court proceeded to take cognizance and issue process without granting the petitioner with an opportunity of hearing, as required under the 1st Proviso to



Section 223(1) of the BNSS. On this ground alone, it is urged that the impugned order is rendered unsustainable in law.

4. Notice of motion.

5. On the asking of the Court, Mr. Satyapal Jain, Additional Solicitor General appearing for the respondent-Directorate of Enforcement accepts notice on behalf of the respondent-ED. He does not dispute that the prosecution complaint was filed on 07.02.2025 nor does he contest the factual assertion that no opportunity of hearing was afforded to the petitioners prior to the issuance of process.

6. At this stage, learned Senior counsel for the petitioners submits that the petitioners would be satisfied if the impugned order dated 08.04.2025 is set aside and the matter is remanded to the learned trial Court for a fresh consideration, after affording the petitioners an opportunity of hearing in terms of the statutory requirement. This course of action is not opposed by the learned Additional Solicitor General.

7. Having heard learned counsel for the parties, and in view of the consensus between them, and without expressing any opinion on the merits of the case, the impugned order dated 08.04.2025 is hereby set aside. The matter is remitted to the learned Special Court, Panchkula, for passing a fresh order in accordance with law, after affording an opportunity of hearing to the petitioners, keeping in view the mandate of 1st Proviso to Section 223 (1) of the BNSS.

8. Accordingly, the instant case stands disposed of.

May 14, 2025
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No