



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR

CRIMINAL APPLICATION (APL) NO. 911 OF 2025

Maresh s/o. Shyamlal Agrawal,
Aged 56 Years, Occupation – Business,
R/o. Nachangaon Pulgaon,
Tehsil – Dewari, District – Wardha.

... **APPLICANT**

...VERSUS...

State of Maharashtra,
Through Police Station Incharge,
Police Station Pulgaon,
District – Wardha.

...**NON-APPLICANT**

Mr. Rohan Deo, Advocate for Applicant.
Mr. N. B. Jawade, Advocate for Non-applicant.

CORAM: MRS. VRUSHALI V. JOSHI, J.
JUDGMENT RESERVED ON: 23.04.2026
JUDGMENT PRONOUNCED ON: 30.04.2026

JUDGMENT: -

1. Heard.
2. **ADMIT.** The matter is taken up for final disposal by consent of learned Counsel appearing for the parties.
3. On 18.08.2023, the First Information Report bearing No.677/2023 came to be registered with the non-applicant No.1- Police Station on the complaint of the Supply Inspector, Dewari for the offence punishable under Sections 3 and 7 of the Essential Commodities Act,

1955 against the present applicant.

4. The Supply Inspector identified and seized the trucks allegedly carrying rice meant for public distribution. The rice was purchased from the licensed public distribution shops in retail quantities for personal gains and black marketing. Three trucks carrying 88155 kgs. of rice of Rs.15,86,790/- were confiscated. The Supply Inspector wrote a letter to the Police Inspector, Police Station Pulgaon, informing him about the seizure of goods and requesting him for further investigation. During enquiry, the drivers of the aforesaid trucks were enquired about the ownership of goods and they informed that the rice is belonged to Abhay Trading Company. The truck drivers also disclosed that the owner of the Abhay Trading Company is the applicant and the trucks were carrying the goods to Rajanandgaon, Chhattisgarh. It is alleged that, the said rice was purchased from Fair Price Shops established by the Government in retail. The applicant failed to produce any bills to substantiate his claim. Therefore, the investigating agency came to the conclusion that the applicant has unauthorizedly hoarded the rice from Government's Fair Price Shops for black marketing and for his personal gains and therefore, the applicant has been booked under Sections 3 and 7 of the Essential Commodities Act, 1955.

5. The learned Counsel for the applicant has stated that, the applicant holds a Trade License with Agriculture Produce Market

Committee, Pulgoan. The applicant has purchased the rice from open market and not from agriculturists under the license issued by the Director of Agriculture Marketing. He has purchased the rice under the license and registration of his firm Shri Balaji Trading Company. The applicant presented bills to the non-applicant but were discarded as being false and fabricated. Non-applicant has not considered the bills produced by the applicant. The Collector was to release the goods on furnishing the Bank Guarantee as demanded by the office of Collectorate.

6. The learned Counsel for the applicant has further stated that, the offence at all is not made out against the present applicant as there is no reference whatsoever made about breach of any order that has been made under Section 3 of the Essential Commodities Act. Unless there is breach of any order that has been made under Section 3 of the said Act, there would be no question of any violation. The charge-sheet is filed and the applicant has amended the application. Even after perusal of the charge-sheet, there is no material on record to demonstrate commission of the alleged offence. Hence, prayed to set aside the charge-sheet and proceedings initiated against the applicant before the Court of Judicial Magistrate First Class.

7. The learned Counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in the case of *Digambar S/o. Rodji Wankhede Vs. State of Maharashtra and Anr.* [2019 SCC OnLine Bom

1439], wherein after considering the judgment, it is observed that, if the the State failed to demonstrate existence of an "Order" issued under Section 3 of the Act of 1955 and, therefore, the FIR stood quashed. In other words, even in the said case an opportunity was granted to the State to demonstrate existence of such of an "Order" and contravention thereof by the accused. In the subsequent Division Bench judgments of this Court in the case of Rakesh s/o. Mahendrakumar Jain Vs. The State of Maharashtra, Dhanraj s/o. Anandrao Mohod & Anr. Vs. The State of Maharashtra & Anr. and Shri Vijay Machindra Markad & Anr. Vs. The State of Maharashtra & Anr., it was found that the State failed to even show the existence "of an Order" issued under Section 3 of the Act of 1955, leading to quashing of the FIR.

8. The applicant has also relied on the judgment of the Hon'ble Apex Court in the case of *Prakash Babu Raghuvanshi Vs. State of M.P [(2004) 7 SCC 490]*, wherein the Hon'ble Court has observed that, Section 7 refers to contravention of any order made under Section 3. It is essential for bringing in application of Section 7 to show that some order has been made under Section 3 and the order has been contravened. Section 3 deals with powers to control production, supply, distribution etc. of essential commodities. Exercise of such powers, can be done by "order". According to Section 2(c) "notified order" means an order notified in the official Gazette, and Section 2(cc) provides that "order"

includes a direction issued thereunder. He has fairly submitted that this Court in Full Bench Judgment has considered this issue and has come to the conclusion that mere non-mention of particular provisions of an order issued under Section 3 of the Act of 1955 by itself is not sufficient to quash and set aside the FIR.

9. Learned A.P.P. opposed the application stating that, as per the judgment of the Full Bench of this Court, for quashing the FIR, it is not sufficient to refer the order of which the condition is violated by the accused. He has also stated that, though the applicant has relied on the judgment of the Hon'ble Apex Court, in the case of *Prakash Babu Raghuvanshi (supra)*, the matter was remanded back to the High Court and it was after conviction in said offence. As there is sufficient material to show that, the applicant was black marketing the rice, which he has collected from the Government Fair Price Shop, he has committed the offence and hence, prayed to reject the application.

10. Heard the learned Counsel for the applicant and the learned A.P.P. for the State.

11. The offence is registered under Sections 3 and 7 of the Essential Commodities Act. After receiving the information, the police would first have to conduct an enquiry and give details of specific order issued under Section 3 of the Act of 1955 and also to give details about contravention of various clauses of such order. The FIR itself is not in

consonance with the said provision of law. As long as the information received by the police shows ingredients of the Act which constitute an offence under the provisions of the act of 1955, the police can register the FIR and proceed to investigate into the matter.

12. In this context, Section 11 of the Act of 1955 becomes relevant because it is provided that, an offence under the said Act shall be taken cognizance by the Court on a report in writing of the facts constituting such an offence made by a public servant or any person aggrieved or recognized consumer association whether such a person is member of that association or not. The said provision indicates that any aggrieved person can approach the police to point out that an offence under the Act has been committed. In such situation, when the information is received raising suspicion about commission of such an offence under the Act of 1955, the police could certainly register the FIR and investigate into the matter and thereafter when called upon by the Court, it could be demonstrated in detail as to which “Order” issued under Section 3 of the Act had been contravened and the Court could take cognizance of such an offence.

13. On perusal of entire charge-sheet, it appears that, in the FIR, the order which was violated as per Sections 3 and 7 of the Essential Commodities Act is not placed. The entire charge-sheet is silent about the said order. The applicant has stated that, he has produced bills of

purchase of said rice and he has purchased the rice from open market. Applicant is the owner of the Abhay Trading Company and he is doing said business. After considering the Full Bench Judgment of this Court, it appears that, it is about quashing of FIR, which is even before the investigation. Here in the present case, the charge-sheet is challenged. The Hon'ble Apex Court has also considered that, the prosecution should produce the order before the Court. In the case in hand, in the FIR, it is not mentioned and in entire charge-sheet, no order is produced by the non-applicant. The Hon'ble Apex Court has also remanded back the matter for production of said order.

14. The learned A.P.P. has stated that, it can be produced before the Court as per the order. The charge-sheet is silent about the order and before this Court, the applicant has not produced any order and unable to state which order was violated by the applicant. As the order is not in existence, even after filing of the charge-sheet, as per the guidelines of the Hon'ble Apex Court, the offence under Sections 3 and 7 will not attract against this applicant. Hence, the following order :

- i] The application is allowed.
- ii] The First Information Report vide Crime No. 677/2023 registered with the non-applicant No.1- Police Station for the offence punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 is quashed and set aside

against present applicant only subject to depositing costs of Rs.50,000/- with the Public Welfare Account maintained with Union Bank of India, High Court Branch, Civil Lines, Nagpur bearing Account No. 129712010001014 and IFSC Code UBIN0812978 and producing the receipt thereof on record within two weeks.

(MRS. VRUSHALI V. JOSHI, J.)