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HC-KAR

NC: 2026:KHC-D:18925
CRL.P No. 102517 of 2026

CNR: KAHC020176582026

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 17TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL PETITION NO. 102517 OF 2026

(482(CR.PC)/528(BNSS)

BETWEEN:

1. SRI KUMAR SHRIKANT HARUGERI
   AGE: 56 YEARS, OCC: BUSINESS,
   R/O. CHINCHALI, TQ: RAIBAG,
   DIST: BELAGAVI-591317.

2. SRI. PRASHANT AMRUTARAI CHIKALAGI
   AGE: 35 YEARS, OCC: MANAGER,
   R/O. HAALI, TQ: JATT, DIST: SANGALI,
   MAHARASHTRA STATE.

... PETITIONERS

(BY SRI. RAMACHANDRA A. MALI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   REP. BY KUDACHI POLICE STATION,
   TQ: RAIBAG, DIST: BELAGAVI,
   NOW REP. BY STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA BUILDING,
   DHARWAD BENCH, DHARWAD.

2. THE FOOD SAFETY OFFICER,
   RAIBAG, TQ: RAIBAG,
   DIST: BELAGAVI-591317.

... RESPONDENTS

(BY SRI. PRAVEENA Y. DEVAREDDIYAVARA, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 528 OF BNSS (U/SEC. 482 OF CR.P.C.) PRAYING TO QUASH THE CHARGE

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SHEET IN C.C. NO. 1002/2019 (CRIME NO. 74/19 KUDACHI P.S.) AS WELL AS THE ENTIRE PROCEEDINGS IN C.C. NO. 1002/2019 ON THE FILE OF II ADDL. CIVIL JUDGE AND JMFC, RAIBAG REGISTERED FOR THE OFFENCES PUNISHABLE U/SEC. 272, 273, 328 AND 420 OF IPC AND SEC. 54, 57 AND 59 OF FOOD SAFETY AND STANDARDS ACT ON THE FILE OF II ADDL. CIVIL JUDGE AND JMFC, RAIBAG IN SO FOR AS THE SAME RELATE TO THE PETITIONERS / ACCUSED NO. 1 AND 2 HEREIN AS THE SAME BEING TOTALLY ILLEGAL AND NOT SUSTAINABLE IN LAW.

THIS PETITION, COMING ON FOR FURTHER ARGUMENTS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL ORDER

Heard the learned counsel Sri.Ramachandra A.Mali for the petitioners/accused Nos.1 and 2 and Sri.Praveena Devareddiyavara, learned HCGP for respondent-State.

2. The petitioners/accused Nos.1 and 2 have filed this petition under Section 528 of BNSS, 2023 (Section 482 of Cr.P.C.) seeking to quash the entire proceedings in C.C.No.1002/2019 in connection with crime No.74/2019 of Kudachi Police Station, Belagavi District, registered for the offences punishable under Sections 272, 273, 328 and 420 of IPC and Sections 54, 57 and 59 of Food Safety and Standards

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Act, 2006 (for short 'FSS Act'), pending on the file of the learned II Additional Civil Judge and JMFC, Raibag.

3. The brief facts of the prosecution case in the nutshell are as under:

Petitioner No. 1 is engaged in the business of dairy and milk and milk products under a licence from the competent authority under the provisions of the FSS Act for more than 20 years at Chinchali Village, Raibag Taluk, Belagavi District, under the name and style Shri Mahakali Milk Dairy. The said dairy used to collect and process about 15,000 to 20,000 liters of milk every day. On 27.06.2019, the defacto complainant visited the dairy, inspected the quality of the milk and dairy products and registered the complaint on the ground that the milk and milk products were adulterated. In turn, the Investigating Officer investigated the matter and filed the charge sheet. Taking exceptions to the same, the petitioners have filed this petition, seeking to quash the entire proceedings.

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4. Learned counsel for the petitioners vehemently contended that the respondent has registered a false case against the petitioners and prima facie there is no material against these petitioners. The trial court without perusing the material available on record issued process against the petitioners, which is illegal and *void ab-initio*, in view of the violation of the mandatory provisions of Section 38, 41, 42 and 46, 47 of the FSS Act and Rules made thereunder.

5. Secondly, the Kudachi Police are incompetent to take up the investigation and to file charge sheet for the offences punishable under Section 54, 57 and 59(i) of the FSS Act and the case launched by the prosecution totally contravenes the procedure prescribed under the provisions of the FSS Act. Only the Food Safety Officer is competent to draw samples as per the mandatory provisions of Section 47 of the FSS Act and investigate into the case under Section 41 of the FSS Act. Therefore, the police lacks inherent jurisdiction to investigate into the offence.

6. Thirdly, none of the allegations made in the charge sheet and statements recorded by the police during the

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investigation, does not disclose the basic ingredients to constitute an offence punishable under Sections mentioned above. Further, in the first information or the entire charge sheet, the ingredients of Sections 270 and 273 of Indian Penal Code are not established.

7. Fourthly, the trial court has failed to appreciate the fact that according to Section 42 of the FSS Act, the Food Safety Officer shall be responsible for inspection of food business, sending them to Food Analyst for receiving the sample from the Food Safety Officer and shall analyze the sample and send the analysis report mentioning method of sampling and analysis within 14 days to the designated officer with a copy to Commissioner of Food Safety, the designated officer. After scrutiny of the report, the Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendation within 14 days to the Commissioner of Food Safety for sanctioning prosecution. Such provisions are not followed by the Investigating Officer.

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8. Fifthly, the trial Court has failed to appreciate that according to Section 47 of FSS Act, the Food Safety Officer, when he takes sample of food analysis, he shall give notice in writing of his intention to have it so analyzed to the person from whom he has taken the sample and divide sample in four parts and mark and seal each part and take the signature of the person from whom the sample has been taken and shall send the sample to Food Analyst by the immediate succeeding working day, i) one of the parts for analysis to the Food Analyst under information to Designated Officer, ii) send two parts to the Designated Officer for keeping these in safe custody, and iii) send the remaining part for analysis to the accredited laboratory.

9. Finally, learned trial Court has failed to appreciate the FSS Act, which is very exhaustive legislation dealing with all aspects of food, including adulteration, unsafe food etc., and Section 89 will have an overriding effect over the provisions of the Indian Penal Code. It shows that the complainant and the Investigating Officer have not complied with the mandatory

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provisions. Hence, learned counsel for the petitioners prayed to allow the petition.

10. In support of his argument, learned counsel for the petitioners relied upon the following judgments:

i) The judgment of Co-ordinate Bench of this court in Crl.P.Nos.6225-26/2014 disposed of on 30.10.2015; Crl.P.No.100856/2019 c/w Crl.P.No.100248/2020 disposed of on 05.12.2022;

ii) The judgment of Telangana High Court in Crl.P.No.3721/2018 and connected matters disposed of 27.08.2018;

iii) The judgment of High Court of Delhi in Crl.Misc.No.7013/2022 disposed of on 06.08.2026; and

iv) The judgment of the Hon'ble Apex Court in the case of Ram Nath vs The State of Uttar Pradesh and Others reported in (2024) 2 SCR 743.

11. *Per contra*, learned HCGP vehemently contended that the petitioners were indulged in adulteration of the milk

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and milk products. Hence, the defacto complainant has lodged the complaint and the Investigating Officer has rightly conducted the investigation and filed the charge sheet. Hence, the contents of the charge sheet material disclose the commission of the offences alleged against the accused persons and the various contentions raised by the petitioners can be considered only after full-fledged trial. Hence, learned HCGP prayed to dismiss the petition.

12. The perusal of the charge sheet material indicates that the Investigating Officer laid the charge sheet against the petitioners wherein the prosecution alleges that these petitioners adulterated the milk and milk products in their milk dairy, which is substandard. To constitute the commission of offence under Section 420 of Indian Penal Code, a person must be induced to part with the property with a dishonest intention to cheat him. In the instant case, there is no allegation that the petitioners either induced any member of public or government to part with the movable or immovable property with an intention to cheat them. Adulteration of milk and milk products can amount to cheating under Section 420 of IPC, but only

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when the greater elements of cheating are established. Admittedly, the alleged cheating was not in any form of making alteration or destroying any valuable security in any manner and the allegation is that these petitioners are involved in adulteration of the milk and milk products. Thus, it does not constitute the offence of cheating. Hence, in the absence of essential ingredients, the cognizance taken for the offence under Section 420 of Indian Penal Code is impermissible.

13. Section 32 of the FSS Act, prescribes that it is only the designated officer who can look into the allegations made against any establishment doing any activity in food business after obtaining license under Section 31 of the said Act and in which event for any complaint regarding failure to comply with any of the regulations, the Designated Officer under Section 32 of the said Act is the authority to take appropriate action including issuance of notice to the alleged violator of the regulations.

14. Section 42 of the FSS Act prescribes the procedure for launching prosecution and the responsibility of launching prosecution would be on the Food Safety Officer in which

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regard, he can take reference to and rely upon the reports submitted by the Food Analyst to whom sample was sent for analysis.

15. Section 42(5) of the Act prescribes that the Commissioner of Food Safety shall communicate the decision to the Designated Officer and Food Safety Officer concerned who shall launch prosecution before courts of ordinary jurisdiction or Special Court as the case may be, and such communication shall also be sent to the purchaser, if the sample was taken under Section 40 of the Act.

16. A conjoint reading of these provisions clearly indicate that the Food Safety Officer alone is competent to conduct search, seize and investigation, investigate any contravention of the provisions of the Act and launch prosecution against the offenders before the Jurisdictional Court.

17. Whereas in the instant case, the police without authority of law have conducted the raid or conducted trial and investigated the offence under the Act. Since the cognizance

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can be taken for the aforesaid offences under the Act only upon a complaint in writing by the Food Safety Officer and not on the basis of the final report submitted by the Police, the cognizance taken on the basis of the final report submitted by the police is one without authority of law.

18. In the instant case, the charges are already framed. But the learned Magistrate also not applied its judicious mind while mentioning the section in the charge while framing charge against the petitioners. In the instant case, though charges are framed, the petitioners have shown exceptional grounds and circumstances i.e., all mandatory provisions are not complied with by the Investigating Officer and though the police have no authority to launch the prosecution and the competent authority has authority to launch the prosecution. However, the police allowed the complaint and investigated the I.O. Thus, continuation of the proceedings will be an abuse of process of law. Therefore, in view of the preceding analysis, the continuation of the criminal proceedings against the petitioners/ accused Nos. 1 and 2 will be an abuse of process of law. Accordingly, the Court proceeds to pass the following:

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ORDER

i. The criminal petition is ***allowed***.

ii. The impugned proceedings in C.C.No.1002/2019 in connection with Crime No.74/2019 of Kudachi Police Station, Belagavi District, registered for the offences punishable under Sections 272, 273, 328 and 420 of IPC and Sections 54, 57 and 59 of Food Safety and Standards Act, 2006, pending on the file of the learned II Additional Civil Judge and JMFC, Raibag, insofar as petitioners are concerned, are hereby quashed.

iii. Pending IAs., if any, stand disposed of.

iv. Registry is directed to send a copy of this order to the trial court forthwith.

Sd/-
(VENKATESH NAIK T)
JUDGE

MBS/CLK
CT:GSM
LIST NO.: 1 SL NO.: 14