

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJESH KUMAR GUPTA

ON THE 16th OF JANUARY, 2026

MISC. CRIMINAL CASE No. 9185 of 2015

NARESH SA WNLA

Versus

THE STATE OF MADHYA PRADESH

.....
Appearance:

Shri Sameer Kumar Shrivastava- Advocate for petitioner.

Shri Dinesh Savita- PP for the State.

.....
WITH

MISC. CRIMINAL CASE No. 12241 of 2014

ASHOK KUMAR JAIN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Abhijeet Singh Tomar- Advocate for petitioner.

Shri Dinesh Savita- PP for the State.

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MISC. CRIMINAL CASE No. 9918 of 2015

KAMMOD SINGH

Versus

THE STATE OF MADHYA PRADESH THR.

.....
Appearance:

Shri Romesh Pratap Singh - Advocate for petitioner.

Shri Dinesh Savita- PP for the State.

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MISC. CRIMINAL CASE No. 9919 of 2015

NARENDRA SINGH RAGHUWANSHI

Versus

THE STATE OF MADHYA PRADESH THR.

.....
Appearance:

Shri Romesh Pratap Singh - Advocate for petitioner.

Shri Dinesh Savita- PP for the State.

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MISC. CRIMINAL CASE No. 554 of 2016

SANJAY PANCHARATNA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Pawan Singh Raghuvanshi- Advocate for the petitioner.

Shri Dinesh Savita- PP for the State.

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ORDER

1. These five petitions under Section 482 of the Code of Criminal Procedure, 1973 are directed against the order dated 03.12.2014 passed by the learned Chief Judicial Magistrate, Vidisha, whereby charges were framed against the petitioners for offences punishable under Sections 406 and 407 of the Indian Penal Code and Section 3/7 of the Essential Commodities Act, 1955, and also against the order dated 14.08.2015 passed by the learned Revisional Court affirming the same.

2. As all the petitions arise out of the same FIR, same inquiry report, same charge-sheet and same orders of courts below, and involve overlapping factual and legal issues, they are being decided by this common order, though facts and grounds of each petition are being considered separately.

3. The prosecution case, as emerging from the FIR, inquiry report and charge-sheet, is that on 04.03.2006, the District Supply Officer, Vidisha, along with Junior Supply Officer and other revenue officials conducted a

surprise inspection at Swastik Agro Mill, Gyaraspur Road Vidisha.

4. During inspection, large quantities of wheat packed in gunny bags not bearing FCI marking were found stored in the premises. Upon verification, it was found that the wheat was meant for distribution under the Public Distribution System (PDS) to BPL card holders, and had been diverted from the authorized route and destination.

5. The inquiry revealed that wheat issued by the M.P. State Civil Supply Corporation for transportation and delivery to fair price shops was not delivered at the designated places, but was instead unloaded mid-way and stored in private godowns, allegedly with intent to misuse and black-market the same, in violation of the Public Distribution System (Control) order.

6. On the basis of the inquiry report dated 13.03.2006, FIR was registered on 23.03.2006 at Crime No.119/2006, Police Station Dehat, Vidisha, initially under Section 3/7 of the Essential Commodities Act, and during investigation, Sections 406 and 407 IPC were added. After completion of investigation, charge-sheet was filed against multiple accused including the present petitioners.

Detailed facts and contentions of case M.Cr.C. No.9185/2015-

7. Learned counsel for the petitioner contends that he has been falsely implicated merely on the ground that he had taken a godown on rent from Kammod Singh for a limited period and thereafter handed it over to co-accused Narendra Raghuvanshi. According to him, no wheat was ever entrusted to him, and he had no control over storage or transportation of the wheat.

8. It is further argued that neither in the FIR nor in the charge-sheet has the prosecution specified which Control Order under Section 3 of the Essential Commodities Act was violated, and therefore the charge under Section 3/7 EC Act is legally unsustainable.

Facts and contentions of case M.Cr.C. No.12241/2014-

9. Learned counsel for the petitioner submitted that the petitioner is the power of attorney holder of R.R. Enterprises, a transporter engaged by the Civil Supply Corporation. His principal defence is that the dispute is purely contractual, and since penalty and cost of wheat were recovered, no criminal offence survives.

Facts and contentions of the case M.Cr.C. No.9918/2015-

10. The petitioner claims to be the owner of Swastik Agro Mill, but asserts that the mill was rented to Naresh Sawala and he had no role in storage of wheat.

Facts and contentions of case M.Cr.C. No.9919/2015:-

11. The petitioner claims that he has been implicated on the basis of contradictory statements regarding management of the godown.

Facts and contentions of case M.Cr.C. No.554/2016:-

12. Petitioners claim that they are Truck owners and drivers and contend that they merely acted on instructions of the contractor due to heavy rain.

13. Learned counsel for petitioners placed reliance on the judgements passed by the Hon'ble Apex Court in the cases of **Shiv Kumar Vs. State of M.P. [2005 Supreme (MP) 615]**, **Arvind Kumar Vs. State of M.P. [2008**

Supreme (MP) 185, Sayyad Mahmood Ahmed Vs. State of M.P. [2012 Supreme (MP) 225], and the judgements passed this Court in the case of Ramesh Chandra Garg Vs. State of M.P. and others [2002 4 MPLJ 493] and Jodhsingh and anr. Vs. State of M.P. and Anr [M.Cr.Cr. No.8836/2013, order dated 13.03.2015].

14. Learned counsel for the respondent/State opposed the prayer and prayed for its dismissal.

15. Heard counsel for the rival parties and perused the entire record with due care.

16. Now, the categorical consideration of this court over the all these petitions is as under:-

17. Inquiry report indicates that :- relevant part is reproduced as under:-

उक्त वर्णित आरोपियो का यह कृत्य सार्वजनिक वितरण प्रणाली (नियंत्रण) आदेश की धारा (6) की कण्डिका (4) का स्पष्ट उल्लंघन होकर आवश्यक वस्तु अधिनियम की धारा 3/7 के अन्तर्गत दंडनीय अपराध है प्रतिवेदन आगामी आवश्यक कार्यवाही हेतु प्रस्तुत ।

Consideration over case M.Cr.C. No.9185/2015-

18. This Court finds that the inquiry report, which is part of the charge-sheet, specifically records violation of **Clause 6(4) of the Public Distribution System (Control) Order**, relating to unauthorized storage and diversion of PDS food grains. At the stage of framing of charge, the Court is required to see whether the **basic ingredients of the offence are prima facie disclosed**, and not whether the prosecution has meticulously pleaded every

statutory provision as has been held in the judgements passed by the Hon'ble Apex Court in the case of *State of Bihar v. Ramesh Singh*, (1977) 4 SCC 39 and *Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460.

19. The petitioner's contention that he was merely a lessor of the godown and had no role in the offence raises a pure question of fact, requiring evidence as to possession, knowledge, and participation. Such defence cannot be adjudicated in proceedings under Section 482 CrPC.

20. Whether the petitioner knowingly permitted or facilitated storage of PDS wheat in the godown is a matter of factual adjudication, which cannot be examined under Section 482 CrPC.

Consideration over case M.Cr.C. No.12241/2014 -

21. The Supreme Court in the cases of *Indian Oil Corporation v. NEPC India Ltd.*, (2006) 6 SCC 736 and *S.W. Palanitkar v. State of Bihar*, (2002) 1 SCC 241, has repeatedly held that civil liability and criminal liability may coexist, and the mere fact that monetary recovery has been made does not obliterate criminality if the essential ingredients of the offence are otherwise disclosed.

22. The material available on record, prima facie discloses entrustment of PDS wheat for a statutory purpose, and its alleged diversion and unauthorized storage. Whether such act was committed with or without the petitioner's knowledge is a matter of evidence.

Consideration over case M.Cr.C. No.9918/2015-

23. Ownership of premises, coupled with prima facie material showing storage of PDS wheat therein, gives rise to a triable issue. Whether the

petitioner had knowledge, consent or connivance cannot be adjudicated without trial.

Consideration over case M.Cr.C. No.9919/2015-

24. Contradictions and inconsistencies in statements are matters of **appreciation of evidence**, and not grounds for quashing proceedings at the stage of charge.

Consideration over M.Cr.C. No.554/2016-

25. The charge-sheet prima facie discloses that the wheat entrusted for delivery was unloaded mid-way and stored in private premises, which attracts **Section 407 IPC** relating to criminal breach of trust by carrier.

26. The Hon'ble Supreme Court in the case of *Prakash Babu v. State of Rajasthan*, (2016) 12 SCC 335 and *Shiv Kumar v. State of Haryana*, (1994) 4 SCC 445 has consistently held that the Essential Commodities Act is a **social welfare legislation** enacted to prevent hoarding, black-marketing and diversion of essential commodities, and therefore deserves **strict interpretation in favour of public interest**, not technical dilution. And, at the stage of framing of charge, the Court is not required to examine whether the prosecution will ultimately succeed, but only whether violation of a Control Order is prima facie disclosed.

27. The Essential Commodities Act is a beneficial and regulatory legislation enacted to protect the common consumer from hoarding and black-marketing, and therefore courts must adopt an interpretation which advances the object of the Act. The technical pleas or hyper-technical objections should not be permitted to defeat prosecution at the threshold,

particularly when prima facie material discloses unauthorized handling of essential commodities.

28. The Hon'ble Apex Court in *K. Raghunathan v. State of Kerala, (1981) 2 SCC 552* has clearly held that **failure to quote the precise Control Order or its clause in the FIR or charge does not vitiate prosecution**, so long as the **nature of violation is disclosed**. It has been further held that **procedural lapses or technical defects** cannot defeat the object of the EC Act at the threshold.

29. Unauthorized storage of foodgrains meant for public distribution constitutes a clear violation of Control Orders framed under Section 3 of the EC Act. Diversion of PDS commodities from the designated route or destination is sufficient to attract **Section 7**, irrespective of whether actual sale is proved.

30. Offences under Section 7 of the EC Act are **regulatory offences**, where strict proof of mens rea is not always mandatory at the initial stage and whether the accused had knowledge or intention is a **matter of trial**, not quashing.

31. Now, this Court is further going into the offence punishable under Section 407 of the IPC in the present context-

32. Section 407 IPC is an aggravated form of criminal breach of trust applicable when the accused acts as a carrier or warehouse-keeper.

33. The essential ingredients are:

- (i) **Entrustment of property for carriage**, and
- (ii) **Dishonest misappropriation or conversion**, or

(iii) Violation of any direction of law or legal contract.

34. Once entrustment is established, any deviation from the agreed purpose may amount to criminal breach of trust. Criminal breach of trust is made out when entrusted property is dealt with in violation of legal direction or contract, even if temporary or without permanent loss. Dishonesty can be inferred from circumstances. Diversion of goods mid-way from the designated delivery point constitutes misappropriation by a carrier. Actual sale or disposal is not mandatory to establish the offence.

35. Here in this case, diversion of goods from the assigned route or delivery point by a carrier constitutes criminal breach of trust, even if the goods are not sold as has been held by the Hon'ble Apex Court in the case of *om Nath Puri v. State of Rajasthan, (1972) 3 SCC 431*. Unloading entrusted goods at an unauthorized place amounts to conversion in violation of legal direction, attracting Section 407 IPC. Explanations such as weather conditions, mechanical failure or instructions or superiors are pure questions of fact, to be examined during trial and at the charge stage, such defences cannot be accepted as gospel truth.

36. Now, the question before this court is of Co-Existence of EC Act and IPC Offences. The prosecution under the EC Act does not bar simultaneous prosecution under IPC for criminal breach of trust arising from the same transaction.

37. The Hon'ble Supreme Court in *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, has held that where allegations disclose ingredients of an offence and require appreciation of evidence, quashing proceedings would

amount to conducting a **premature trial**, which is impermissible.

38. In *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, (2021) 19 SCC 401, the Supreme Court has authoritatively held that courts must refrain from interfering at the pre-trial stage when allegations disclose a cognizable offence, and **evaluation of truthfulness or sufficiency of evidence lies outside the scope of Section 482 CrPC.**

39. Here in this case, the inquiry report clearly records violation of **Public Distribution System (Control) Order**, particularly Clause 6(4), which governs storage and delivery of PDS food grains. The absence of verbatim reproduction of the Control Order in the charge-sheet is **not fatal at this stage**, especially when the inquiry report and seizure memo prima facie disclose contravention. Whether the violation is ultimately proved is a **matter of evidence**, to be decided during trial.

40. In view of the aforesaid authoritative pronouncements, this Court finds that the allegations relating to **entrustment, diversion, unauthorized storage and breach of trust by carriers** clearly disclose prima facie offences under Sections 3/7 of the Essential Commodities Act and Sections 406/407 IPC.

41. The defences raised by the petitioners involve **disputed questions of fact**, requiring appreciation of evidence, and therefore cannot be examined in proceedings under Section 482 CrPC.

42. However, the Trial Court is empowered under **Sections 216 and 217 Cr.P.C.** to **alter or modify charges** at any stage, if evidence so warrants. Hence, no prejudice is caused to the petitioners at this juncture.

43. Resultantly, all the five petitions are dismissed. Pending applications, if any, stand disposed of. It is clarified that the observations made herein are **prima facie in nature** and shall not prejudice the Trial Court during trial. **The Trial Court shall remain at liberty to alter charges, if warranted by evidence.**

(RAJESH KUMAR GUPTA)
JUDGE

Vishal