

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

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BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.6547 OF 2019

BETWEEN:

1. MR. PRASHANT KUMAR JOSHI,
AGED ABOUT 48 YEARS,
EX-GENERAL MANAGER,
S/O LATE SHRI. PAWAN KUMAR JOSHI,
RESIDING AT I-121, WINDSOR PARK,
VAIBHAV KHAND, INDIRAPURAM,
GHAZIABAD-201014 (UTTAR PRADESH).

...PETITIONER

(BY SRI. SHRIKARA P.K., ADVOCATE AND
SRI GANAPATI HEGDE, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
THROUGH THE INSPECTOR OF LEGAL METROLOGY,
MALLESHWARAM SUB-DIVISION,
NO.21, 4TH MAIN,
BETWEEN 8TH AND 9TH CROSS,
BENGALURU-560003,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

...RESPONDENT

(BY SRI M. DIVAKAR MADDUR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C PRAYING TO QUASH THE IMPUGNED ORDER DATED
26/07/2012 (ANNEXURE-B) PASSED IN CC.NO.17160/2012 BY
THE COURT OF THE HON'BLE VIII ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE AT BENGALURU, TAKING



COGNIZANCE OF THE CASE AGAINST THE PETITIONER AND ANOTHER FOR THE ALLEGED VIOLATIONS UNDER RULES 4, 6 AND 27 OF THE LEGAL METROLOGY (PACKAGED COMMODITIES) RULES, 2011 AND SECTION 18 OF THE LEGAL METROLOGY ACT, 2009 AND PUNISHABLE UNDER RULE 32 OF THE LEGAL METROLOGY (PACKAGED COMMODITIES) RULES, 2011 AND SECTION 36 READ WITH SECTION 49 OF THE LEGAL METROLOGY ACT, 2009, NOW PENDING IN LVI ACMM AT BENGALURU AND TO QUASH THE COMPLAINT DATED 26/07/2012 (ANNEXURE-A) FILED BY THE RESPONDENT AGAINST THE PETITIONER NOW PENDING ON THE FILE HON'BLE COURT OF THE LVI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU IN CC NO.17160/2012 FOR THE ALLEGED VIOLATIONS UNDER RULES 4, 6 AND 27 OF THE LEGAL METROLOGY (PACKAGED COMMODITIES) RULES, 2011 AND SECTION 18 OF THE LEGAL METROLOGY ACT, 2009 AND PUNISHABLE UNDER RULE 32 OF THE LEGAL METROLOGY (PACKAGED COMMODITIES) RULES, 2011 AND SECTION 36 READ WITH SECTION 49 OF THE LEGAL METROLOGY ACT, 2009.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 09.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent/State.

2. This petition is filed praying this Court to quash the impugned order dated 26.07.2012 (Annexure-B) passed in C.C.No.17160/2012, on the file of VIII Additional Chief Metropolitan Magistrate at Bangalore taking cognizance of the

case against the petitioner and another for the alleged violations under Rules 4, 6 and 27 of the Legal Metrology (Packaged Commodities) Rules, 2011 ('Rules 2011' for short) and Section 18 of the Legal Metrology Act, 2009 ('Act 2009' for short), which is punishable under Rule 32 of the Rules 2011 and Section 36 read with Section 49 of the Act 2009 and also to quash the complaint dated 26.07.2012 Annexure-A, pending on the file of LVI Additional Chief Metropolitan Magistrate, Bengaluru and pass such other orders.

3. The factual matrix of the case of the respondent/complainant by filing a private complaint under Section 200 of Cr.P.C. is that, this petitioner is arrayed as accused No.2 in the capacity of General Manager (Legal), Pearson Education, M/s. Dorling Kindersley (India) Pvt. Ltd. It is contended that on 27.01.2012 at 03.00 p.m., Inspector of Legal Metrology along with panch witness visited and inspected the premises of Sri Abhishek L (Director), M/s. Surya Infotainment Products Pvt. Ltd. and found that Mr. K.M.Paniraj, Business Head was present in the shop and he had in his possession one pre-packed package of Pearson published Engineering Drawing Textbook. On the said package, manufacturer name and full address, maximum retail price,

manufactured month and year or packed month and year, net contents inside the package, consumer care telephone number and e-mail address has not been mentioned. But Act and Rules insists to mention the above declarations. Retailer has kept said packages for sale and hence, the same amounts to an offence under Section 18 of the Act 2009 read with Rule 18(1) of the Rules 2011 and the same is punishable under Section 36 of the Act 2009. In the complaint, it is stated that retailer has approached this Court and filed writ petition and stay was granted and hence, retailer case is kept pending until further direction from the High Court. However, it is contended that accused Nos.1 and 2 are manufacturer-cum-publisher of the above said package and they have violated the rules and conditions imposed under the Rules and they are punishable and hence, made this petitioner as accused No.2.

4. The main contention of the learned counsel for the petitioner before this Court is that accused No.1 has already approached this Court and case against accused No.1 was quashed by this Court vide order dated 10.07.2019 in Crl.P.No.1931/2015 and copy of the same is also produced before this Court. M/s. Surya Infotainment Products Pvt. Ltd. preferred a writ petition in W.P.No.22778/2012 challenging the

applicability of the provisions of the Act 2009 and Rules 2011 and the same is pending for consideration. It is also contended that the issues with regard to the definition of pre-packaged commodity is pending before the larger bench of the Supreme Court. It is contended that the petitioner is not a person nominated under Section 49(3) of the Act 2009 in respect of the compliance of the provisions of the Act 2009 and Rules made therein. It is contended that the petitioner was not holding any post directly involving in the day-to-day affairs of Dorling Kindersley and he was not in charge and responsible for the day-to-day affairs of the Dorling Kindersley. He was neither a Managing Director nor a Director with the company. The petitioner was a normal employee carrying out his duties. It is also contended that the Trial Judge ought not to have taken cognizance against this petitioner based on the impugned complaint and very taking of cognizance against this petitioner is bad in law. The Engineering Drawing Textbook published by Pearson India Ltd. cannot be considered as a pre-packed package commodity as per Section 2(1) of the Act 2009. The initiation of the proceedings and taking of cognizance is without the authority of law. The complaint also does not indicate how this petitioner is responsible for the same. The Trial Court failed

to notice that there are no allegations in the complaint against the petitioner as to how the petitioner was responsible for the conduct of business of the company as on the date of alleged offence. When this petitioner was not a nominated person under Section 49(1)(ii) of the Act 2009 and this petitioner was not responsible for the conduct of business of the company, the question of fastening the guilt on the petitioner does not arise. Hence, prayed this Court to quash the proceedings.

5. The learned counsel for the petitioner also brought to the notice of this Court the judgment passed by this Court in Crl.R.P.No.2319/2013 dated 14.03.2019, wherein this Court has discussed the very proviso of Section 49 of the Act 2009 and so also the allegations made invoking Section 18 of the Act 2009 and Rules 4 and 24 of the Rules 2011. The Court also taken note of the judgments of the Apex Court in the case of **ANEETA HADA v. M/S GODFATHER TRAVELS AND TOURS PVT.LTD.** reported in **(2012) 5 SCC 661** and also **PEPSI FOODS LTD. v. SPECIAL JUDICIAL MAGISTRATE** reported in **(1998) 5 SCC 749**, wherein in those judgments, interpretation was made with regard to the provisions of Section 141 of the Negotiable Instruments Act, 1881 while not arraying the company as party to the proceedings. There

cannot be any proceedings without the company as party to the proceedings and it amounts to miscarriage of justice and an abuse of process.

6. The learned counsel referring these judgments would contend that in this case also, company has not been arrayed as accused. In the complaint, nothing is stated that this petitioner is in charge of any responsibility. He is an ordinary employee and except stating that accused Nos.1 and 2 are manufacturer-cum-publisher of the above package, nothing is stated in the complaint and hence, the question of continuing the proceedings against this petitioner does not arise.

7. The learned counsel for the petitioner also brought to the notice of this Court the order passed by this Court in Crl.P.No.1931/2015 dated 10.07.2019, wherein while quashing the case against accused No.1, it is held that accused No.1 ceased to be the Managing Director of the aforesaid company with effect from 14.04.2011 and no prima facie material is produced before the Court to show that as on 27.01.2012, accused No.1 was the Managing Director of the company and was associated with said company and hence, quashed the same.

8. Per contra, the learned High Court Government Pleader appearing for the respondent/State in his arguments would vehemently contend that the very complaint is very clear that the book was found with one Mr. K.M. Paniraj, Business Head, who was present in the shop and he had in his possession one pre-packed package of Pearson published Engineering Drawing Textbook and the same does not contain the full details as contemplated. Hence, there is a clear violation of rules and provisions and amounts to an offence under Section 18 of the Act 2009 read with Rule 18(1) of the Rules 2011, which is punishable under Section 36 of the Act 2009. Hence, the contention of the learned counsel for the petitioner cannot be accepted.

9. Having heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent/State, this Court has to take note of the material available on record. Having considered Annexure-A complaint, no doubt the complainant invoked the provisions under Section 200 of Cr.P.C. to file the complaint. While invoking Section 200 of Cr.P.C. and penal provisions under the Act, it is contended that an inspection was conducted on 27.01.2012 and no dispute to that effect. It is also not in

dispute that the Business Head, who was present in the shop, had in his possession one pre-packed package of Pearson published Engineering Drawing Textbook. It is contended that there was a violation of rules and that the said package should contain manufacturer name and full address, maximum retail price, manufactured month and year or packed month and year, net contents inside the package, consumer care telephone number and e-mail address and the same was not found and hence, the same is an offence under Section 18 of the Act 2009 read with Rule 18(1) of the Rules 2011 and the same is punishable under Section 36 of the Act 2009.

10. The Court has to take note of that while implicating this petitioner as accused No.2, in the cause title it is mentioned as General Manager (Legal). In paragraph No.4 of the complaint it is stated that accused Nos.1 and 2 are manufacturer-cum-publisher of the above said package and they have violated the provisions of the Act 2009 and Rules 2011. In the complaint, except stating that they are manufacturer-cum-publisher, nothing is stated that they are in charge of the affairs of the company. It is stated that the retailer has already approached this Court by filing a writ petition and the same is pending for adjudication. It is also not

in dispute that M/s. Surya Infotainment Products Pvt. Ltd. has already filed the writ petition before the Court and the same is also pending for consideration. The Court while considering the contents of the complaint has to take note of whether any averments are made in the complaint that this petitioner was holding any post directly involving in the day-to-day affairs of M/s.Dorling Kindersley. But nothing is mentioned in the complaint. It is also the contention of the petitioner that he was not in charge and responsible for day-to-day affairs of M/s. Dorling Kindersley. Apart from that, he was neither a Managing Director nor a Director of the company as contended by the petitioner and he was only a normal employee i.e., General Manager (Legal) and the same is found in the cause title of the complaint itself. There is no any such averment in the complaint that he was in charge of the affairs of the company and also he is not a person nominated under Section 49(3) of the Act 2009 in respect of the compliance of the provisions of the Act 2009 and Rules made therein.

11. This Court would like to extract the relevant provisions of Section 49 of the Legal Metrology Act, 2009, which reads as under:

"49. Offences by companies and power of court to publish name, place of business, etc., for companies convicted.—(1) Where an offence under this Act has been committed by a company,—

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(a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as a person responsible); or
(ii) where no person has been nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company;
and
(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence."

12. Having considered the provisions of Section 49 of the Act 2009, it is very clear that if any offence under this Act has been committed by a company, the person who has been nominated, under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Where no person has been nominated, every person, who at the time the offence was in charge of, and was responsible to, the company for the conduct of the business of the company and also the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

13. But in the case on hand, it has to be noted that the company has not been arrayed as accused as rightly pointed out by the learned counsel for the petitioner. No material is placed before the Court that under Section 49 of the Act 2009, this petitioner has been nominated. When such being the case, the very judgments of the Apex Court in a case of **Aneeta Hada** (supra) and **Pepsi Foods** (supra) are very clear that while interpreting the provisions of Section 141 of the Negotiable Instruments Act, if company is not arrayed as party

to the proceedings, there is no any compliance of Section 141 of the Act. In the case on hand also, company has not been arrayed as party. Only made accused Nos.1 and 2 as party. The same is in violation of Section 49 of the Act 2009 and also in violation of Section 141 of the Negotiable Instruments Act. Nothing is stated in the complaint that this petitioner was in charge of the affairs of the company and he being shown as General Manager (Legal), the question of initiating the criminal prosecution against this petitioner is nothing but an abuse of process, which amounts to miscarriage of justice. This Court already quashed the proceeding in respect of accused No.1, since he was not in charge of the affairs of the company as on the date of the incident. In respect of this petitioner is concerned also, when there is no specific averment in the complaint that he is in charge of the affairs of the company as well as he has been nominated under Section 49 of the Act 2009, the question of proceeding against this petitioner does not arise. If the proceedings is continued, it is nothing but an abuse of process. Hence, the petitioner has made out a ground to invoke the provisions under Section 482 of Cr.P.C. or otherwise it amounts to miscarriage of justice.

14. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed. The proceedings initiated against the petitioner in C.C.No.17160/2012 taking cognizance is quashed.

**Sd/-
(H.P.SANDESH)
JUDGE**

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