



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-10-2026

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

CRL RC No. 1291 of 2026

AND

CRL RC NO. 1292 OF 2026, CRL MP NO. 10851 OF 2026, CRL MP NO. 10846 OF 2026

1.Vaigai Industries
Rep by its Chairman V.Needhi Mohan,
Factory,
No.32/1, Melakasakudy,
Karaikal
Puducherry
Registered Office at No.39-B,
Anna Nagar, Madurai.

2.V.Neethi Mohan
Chairman,
M/s Vaigai Chemical Industries Ltd.,
R/o 38/375, Anna Nagar,
Madurai.

..Petitioners

Vs

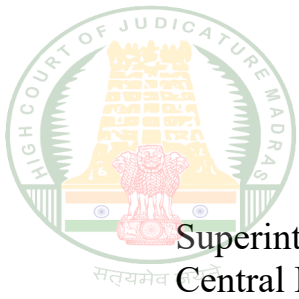
Superintendent of Police
Central Bureau of Investigation (CBI),
Economics Offence Wing (EOW).
Chennai.
FIR.No.16 of 2009

..Respondent

CRL RC No. 1292 of 2026

P.Dhanasekaran
S/o. Periaswamy Nadar,
Vice-Chairman,
M/s. Vaighai Chemical Industries Ltd.,
Madurai-20.

..Petitioner



Vs

Superintendent of Police
Central Bureau of Investigation (CBI),
Economics Offence Wing (EOW),
Chennai.
FIR No.16/2009

..Respondent(s)

CRL RC No. 1291 of 2026

To call for the records and set aside the order dated 03.01.2026 passed in CrI.MP.No.28 of 2025 in CC.No.4 of 2024 on the file of the Learned Judicial Magistrate I, Karaikal and consequently discharge the first and second petitioner from CC.No.4 of 2024 on the file of the Judicial Magistrate I, Karaikal.

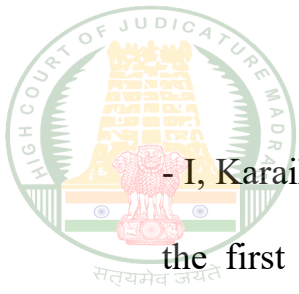
CRL RC No. 1292 of 2026

To call for the records and set aside the order dated 03-01-2026 passed in CrI MP No.33 of 2025 in CC No.4 of 2024 on the file of the Learned Judicial Magistrate - I, Karaikal, and consequently discharge the Petitioner from C.C. No.4 of 2024 on the file of the Judicial Magistrate - I, Karaikal.

For Petitioners	: Mr.A.Ramesh, Senior Counsel for Mr.A.R.Ramanathan
For Respondent	: Mr.B.Mohan Special Public Prosecutor For CBI Cases

Common Order

These two revisions challenge the dismissal of the applications for discharge filed by the accused Nos.1 to 3 in CC.No.4 of 2024 (RC16/E/2009/CBI/EOW/Chennai) on the file of the learned Judicial Magistrate

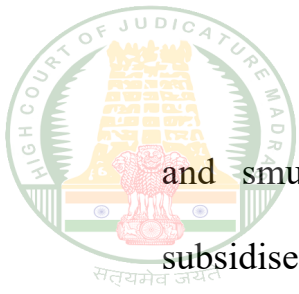


- I, Karaikal. The first petitioner/Vaigai Industries in Crl.RC.No.1291 of 2026 is the first accused and its Chairman is the second accused. The petitioner in Crl.R.C.No.1292 of 2026 is the third accused, who is the Vice-Chairman of the Vaigai Chemical Industries Limited, a division of which is the first accused. An FIR was registered by the Food Cell Police, Karaikal, Puducherry in Crime No.5 of 2009 on 08.07.2009.

2. The complainant was one Shri.N.Rajendran, The Additional Director, Agricultural Department, Karaikal. Initially, the complaint invoked Section 7(1) (a)(ii) of Essential Commodities Act read with Clauses 25(1) and 25(2) of Fertilizer (Control) Order, 1985. Thereafter, on the request of the Government of Puducherry, the case was re-registered by the Economic Offences Wing of CBI on 18.09.2009 in RC.16/E/2009/CBI/EOW/Chennai.

3. The case of the prosecution is as follows:

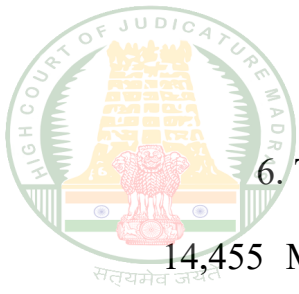
The first accused is a company by name, M/s.Vaigai Industries, Karaikal. The said company is a unit of M/s.Vaigai Chemical Industries Limited. This company manufactures Potassium Chlorate. It came to the knowledge of the prosecution that the said company was utilising fertilizer grade Potassium Chloride for the purpose of manufacturing Potassium Chlorate. Potassium Chloride was being purchased from Tamil Nadu at subsidised rates meant for agricultural purpose instead of the rates meant for industrial purpose



and smuggled to Karaikal, Puducherry. Potassium Chloride is a highly subsidised chemical. In terms of Clauses 25(1) and 25(2) of Fertilizer (Control) Order, 1985, permission has to be obtained from the Government of India for industrial use of fertilizer or for procurement of fertilizer grade as raw material for industrial use.

4. The Government of India was importing Potassium Chloride at Rs.10,256 per Metric Tonne in December 2006 and at about Rs.33,077 per Metric Tonne in July 2009. As a measure to encourage farmers, the imported Potassium Chloride was being sold at a subsidised rate of Rs.4,425 with additional charges for handling and dealer commission. This Potassium Chloride was also called Muriate of Potash (MOP). As Potassium Chloride is a controlled commodity, it can be sold only by persons licenced under the Fertilizer (Control) Order, 1985. The license was given on the condition that the fertilizer can be sold only to farmers for agricultural purpose and it cannot be diverted for industrial purpose.

5. The prosecution alleged that this imported MOP was diverted by the license dealers to several agents, who in turn sold it for industrial purpose. It was alleged that the petitioners herein had entered into a criminal conspiracy with the dealers for purchase of the subsidised MOP for their company.



6. The prosecution further alleged that the petitioners herein had procured 14,455 Metric Tonnes of subsidised MOP meant for agricultural use and diverted it for industrial use. On account of such diversion, the Government of India suffered a loss of Rs.19.23 crores.

7. It was further alleged that the first accused/Vaigai Industries had secured a license under the Arms Act to manufacture a maximum of 3,285 Metric Tonnes of Potassium Chlorate in 2003-04. However, between the years 2004 and 2010, the first accused had illegally exceeded its manufacture and had produced 7,617.25 Metric Tonnes in 2007-08. In order to get the license renewed, the first accused had suppressed the production figures. It was further alleged that accused Nos.4 to 18 had illegally diverted the MOP received from M/s.Indian Potash Limited to the use of A1 to A3. Consequently, a final report was filed on 29.09.2010 before the learned Judicial Magistrate-2 Karaikal charging the petitioners of having committed offences under the following provisions:

- (i) Section 120B read with Section 420 of IPC,
- (ii) Sections 7(1)(a)(ii) and 10 read with Section 3 of the Essential Commodities Act, 1955,
- (iii) Clauses 25(1) and 25(2) of the Fertilizer (Control) Order, 1985, and
- (iv) Sections 25(1)(a) and 33 read with Section 5 of the Arms Act, 1959.



8. The charge sheet was taken on file as C.C.No.334 of 2010. The accused Nos.1 & 2 filed a discharge petition in Crl.M.P.No.1285 of 2012 and the accused No.3 filed a discharge petition in Crl.M.P.No.1293 of 2012. Subsequently, the case was transferred from the file of the Judicial Magistrate No.2 to the file of the Judicial Magistrate No.1, Karaikal and re-numbered as CC.No.4 of 2024 and the discharge petitions in Crl.M.P.No.1285 of 2012 and Crl.M.P.No.1293 of 2012 were re-numbered as Crl.M.P.No.28 of 2025 and Crl.M.P.No.33 of 2025 respectively. By an order dated 03.01.2026, the learned Trial Judge dismissed those applications. Hence, these revisions.

9. I heard Mr.A.Ramesh, learned Senior Counsel appearing for Mr.A.R.Ramanathan for the petitioners and Mr.B.Mohan for the respondent.

10. Mr.A.Ramesh, after reading out from the FIR and charge sheet, submitted that soon after the FIR was registered, writ petitions were filed by the petitioners herein in W.P.Nos.15893 to 15896 of 2009. This was on account of the orders passed by the Fertilizer Inspector of Karaikal, seizing the stock of Potassium Chloride in possession of the petitioners in contravention of clauses 25(1) and 25(2) of the Fertilizer (Control) Order, 1985. A learned Single Judge of this court by an order dated 17.09.2009 dismissed the miscellaneous petitions filed by the petitioners seeking stay of the operation of the seizure. However, he granted a direction to refer the samples of Potassium Chloride, that had been



seized from the petitioners, for analysis to the CSIR lab at Pune as sought for by the petitioners. This direction was given in order to enable the CSIR to submit a report whether those seized were Potassium Chloride of Potassium Chloride technical grade. The learned Single Judge also directed that the report submitted by the CSIR should be taken into consideration along with the analysis report of the Regional Fertiliser Control Laboratory, Madhavaram, dated 19.08.2009.

11. Mr.A.Ramesh further pointed out that aggrieved by the said order, appeals were preferred by the Fertiliser Inspector of Karaikal and other authorities before a Division Bench of this Court. These appeals were clubbed along with the writ petitions and an order was passed on 21.06.2010. In that order, the direction given by the learned Single Judge was set aside and the District Collector was called upon to issue notice to the writ petitioners under the Essential Commodities Act and pass appropriate orders after giving reasonable opportunity to both sides.

12. Mr.A.Ramesh further urged that the learned District Magistrate, Karaikal had initiated proceedings under Section 6A of the Essential Commodities Act of 1955. After obtaining the report from the National Test House, Kolkata, Ministry of Consumer Affairs, Food and Public Distribution, Government of India, he concluded that the seized sample sent for testing is not a technical grade Potassium Chloride. Consequently, he concluded that the



seized sample is not an “*essential commodity*” and dropped further proceedings under Section 6A of the Essential Commodities Act.

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13. Mr.A.Ramesh pointed out that in a connected proceeding, the learned District Magistrate came to a conclusion that the seized sample is an essential commodity and confiscated the seized Potassium Chloride. Aggrieved by the said order, the petitioners preferred an appeal in Crl.A.No.10 of 2011 before the learned Additional Sessions Judge, Karaikal. This appeal, under Section 6C of the Essential Commodities Act, came to be allowed on 29.08.2011, setting aside the order of the learned District Magistrate. A direction was also issued that the confiscated material should be released to the petitioners. Accordingly, the material was also released. It was in the meantime that a charge sheet came to be filed in this case.

14. Furthermore, Mr.A.Ramesh stated that a writ petition came to be presented before this court in W.P.No.22850 of 2011 by the Additional Director of Agriculture, Karaikal and another, challenging the proceedings of the learned District Magistrate releasing the goods on 20.05.2011. This writ petition came to be dismissed for default on 12.06.2012. A restoration petition filed in W.M.P.No.6017 of 2022 also came to be dismissed on 13.10.2022. He urged that as the foundational fact itself had been knocked out by the order under



Section 6A as confirmed by the order under Section 6C, the petitioners deserve to be discharged.

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15. Mr.A.Ramesh thereafter pointed out that the offence under Section 3 of the Arms Act is barred due to Section 468 of the Cr.P.C. Furthermore, as no sanction had been taken from the District Collector as required under Section 39 of the Arms Act, the prosecution should fail for want of sanction.

16. He stated that the offence under Section 420 of IPC is not attracted, since there was no representation to the Government of India by the petitioners. He pointed out that the materials relied upon by the petitioners at the stage of discharge are all of sterling quality and therefore, the learned Trial Judge ought to have relied upon them and discharged the accused.

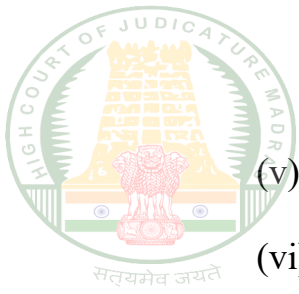
17. The petitioner relied upon the following judgments:

(i) *Rahul v. State of Uttar Pradesh and Another*; 2026 SCC Online SC 1538;

(ii) *Prashant Bharti v. State (NCT of Delhi)*, (2013) 9 SCC 293;

(iii) *Akanksha Arora v. Tanay Maben*; (2024) 12 SCR 954;

(iv) *K.S.Narayanan & Others v. S.Gopinathan*; 1981 SCC Online Mad 289;



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(v) *Ram Prakash Chadha v. State of Uttar Pradesh*; (2024) 10 SCC 651;

(vi) *Thakur Das v. State of Madhya Pradesh & Another*, (1978) 1 SCC

(vii) *Harbhajan Singh v. State of Madhya Pradesh*, 1977 SCC Online MP 38;

(viii) *Nadeem Main and Others v. The State*, 1977 SCC Online AP 16;

(ix) *Sivadasan Kunju Nair v. Shashikant Laxman Waghmare and Others*, 2024 SCC Online Bom 2585;

(x) *Bikash Kumar Agarwal v. State of Odisha*, 2023 Supreme (Ori) 102;

(xi) *Kamalakanta Sahoo & Others v. State of Orissa*, 2013 SCC Online Ori 148;

(xii) *Surendra Kumar Thakur v. State of Bihar*, 1989 SCC Online Pat 60;

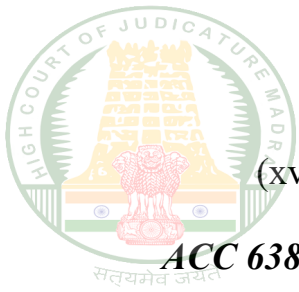
(xiii) *Roshan Lal Arjun Lal v. State of Bihar*, 1992 SCC Online Pat 206;

(xiv) *Prem Raj v. Poonamma Menon & Another*, (2024) 4 SCR 29;

(xv) *Syed Askari Haid Ali Augustine Imam & Another v. State (Delhi Admn.) & Another*, (2009) 3 SCR 1017;

(xvi) *K.G.Premshanker v. Inspector of Police & Another*, 2002 SCR Supp (2) 350;

(xvii) *M.S.Sheriff & Another v. State of Madras & Another*, (1954) 1 SCC 524;



(xviii) *Anil Behari Ghosh v. Latika Bala Dassi and Others, (1955) 1*

ACC 638;

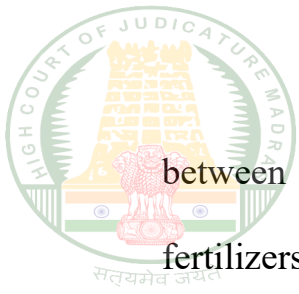
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(xix) *State v. A.K.Mohammed Hussai, Crl.R.C.No.240 of 2016;* and

(xx) *Surendra Kumar Jhunjhunwala v. State of Bihar, 1990 SCC Online Pat 205.*

18. Per contra, Mr.Mohan urges that at the time of dealing with a discharge application, the court should look only into the documents filed by the prosecution and it cannot rely upon the documents presented by the accused. His stand is that even assuming that the orders under Sections 6A and 6C apply, it will only be with respect to 14 MTs that were seized and sent for examination. He strongly urged that it will not apply for the other materials that had been manufactured and sold by the petitioners herein. He states that the documents filed with the charge sheet show that the commodity procured was agricultural grade fertilizer, that was purchased by the Government of India at a considerable cost and subsidized for the purpose of sale to farmers, had been illegally diverted by the petitioners.

19. Rejecting the plea that Section 3 of the Arms Act applies, Mr.Mohan pointed out that the petitioners are manufacturers and therefore, the applicable provision is Section 5 of the Arms Act. He pointed out that excess manufacture attracts Sections 5 and 25. His entire case is that there had been conspiracy

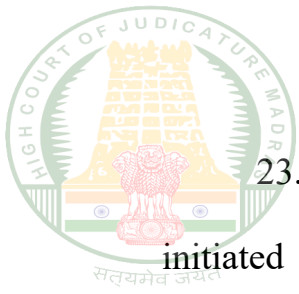


between the petitioners herein and the dealers to unlawfully procure the fertilizers obtained for agriculture for industrial use and to utilize the same for conversion of Potassium Chloride into Potassium Chlorate. He urged that the charges are yet to be framed, despite the fact that the case pertains to 2009 vintage.

20. In response, after recalling his contentions, Mr.A.Ramesh pointed out that though the petitions for discharge has been filed as early as 2012, the matters were delayed by the CBI by filing their counter only in the year 2016. Thereafter, the petitioners cannot be accused of having delayed the proceeding for a decade and half.

21. I have carefully considered the submissions of both sides. I have gone through the records.

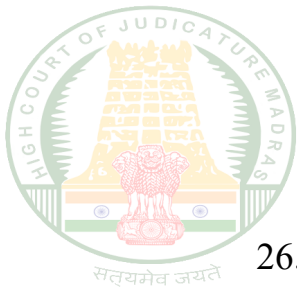
22. I would divide the judgement into several parts. The first part being whether the findings given by the Collector under Section 6A and by the appellate authority under Section 6C of the Essential Commodities Act are binding on the criminal court while dealing with the prosecution launched under Section 7 of the Essential Commodities Act.



23. Essential Commodities Act creates a cleavage between proceedings initiated targeting the property and those initiated targeting the persons responsible for the violation of the Act. Proceedings under Section 6A initiated by the District Collector are quasi judicial in nature. The effect of an order passed under Section 6A leads to confiscation or release of the material which has been seized. Being a quasi judicial action, the proceedings of the Collector runs on the lines of “*preponderance of probabilities*”.

24. The proceedings under Section 7 are launched before the criminal courts. It is a judicial proceeding. In case the prosecution proves the case, the result is imprisonment. The purpose of the proceedings under Section 7 is to determine the guilt of the accused. The evidentiary threshold is “*beyond reasonable doubt*”.

25. A casual perusal of Sections 6A and 7 of the Essential Commodities Act would show that they operate on two different spheres. As held by a Division Bench of the Patna High Court in ***Surendra Kumar Jhunjunwala v. State of Bihar, 1990 SCC Online Patna 205***, the Collector lacks the power to convict or sentence a person and a Magistrate cannot deal with the property. At this stage, it is relevant to take note of Section 6D of the Essential Commodities Act. This clearly states that the award of any confiscation ordered by the Collector under Section 6A does not prevent any action under Section 7.

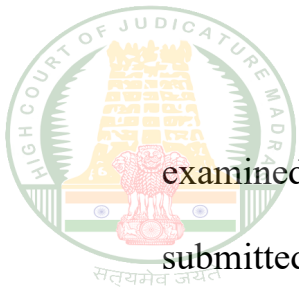


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26. I would also take note of Sections 6C(2) and 6A(3)(c) herein. If the trial ends in an acquittal, the State is called upon to return the value of the confiscated property or seized commodity itself to the person to whom it belongs. However, the contra is not true. If the Collector was to drop the proceedings under Section 6A, as done in the present case, the court would still be called upon to evaluate the evidence independently to determine if the offence under Section 7 took place or not. To this end, I will refer to a judgment of the Calcutta High Court in ***Sri Rakesh Garg @ Rakesh Kumar Garg v. State of West Bengal, 2002 SCC Online Cal 434.***

27. It is the plea of Mr.A.Ramesh that as the orders passed by the District Collector and that of the court are of sterling quality, this court may rely upon the same and discharge the accused or in the alternative, convert the revision into a proceeding under Section 482 and quash the same.

28. Let us now analyse the position stage by stage. In ***State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568***, Three Judges Bench of the Supreme Court was called upon to lay down the law as to what are the materials the trial court can examine at the stage of framing of charges or at the time of considering an application for discharge. The Supreme Court specifically

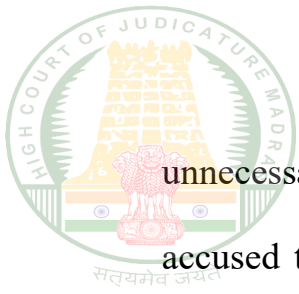


examined whether the trial court has the authority to consider the materials submitted by the accused at the stage of Sections 227 and 228 of Cr.P.C.

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29. Prior to the judgment in ***Debendra Nath Padhi***'s case, the Supreme Court in ***Satish Mehra v. Delhi Administration and Another, (1996) 9 SCC 766***, a two Judges Bench of that Court, had held if the accused produces any reliable materials at the stage of taking cognizance or framing of charges which affects the very sustainability of the case, it would be unjust for the court to hold that it would look into them only at the later stage. Since this view was in conflict with the earlier views of the Supreme Court in ***State of Bihar v. Ramesh Singh, (1977) 4 SCC 39*** and ***Superintendent and Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja and Others, (1979) 4 SCC 274***, a two Judges Bench referred the matter to a larger Bench.

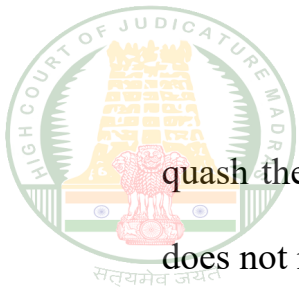
30. Justice Y.K.Sabharwal, speaking for the Bench, after reviewing several authorities, concluded that Sections 227, 228 and 91 of Cr.P.C determine the jurisdiction of a court while framing of charges. The court overruled the earlier view in ***Satish Mehra***'s case (*cited supra*). It held that by permitting defence submission during the stage of framing of charges, the court is called upon to conduct a “mini trial” within a “trial” and thereby, undermining the purpose of Cr.P.C. itself. It pointed out that if the defence was to be permitted to produce materials at the stage of discharge, it would lead to



unnecessary delays in the trial proceedings. It rejected the argument of the accused that Articles 14 and 21 of the Constitution and Section 91 of Cr.P.C confer right to produce defence materials at the stage of framing of charges. The Supreme Court concluded that at the stage of discharge, only prosecution materials are to be considered. This decision concludes that the accused must wait till the trial to present their defence. However, it is left open to the accused to still move the High Court under Section 482 of Cr.P.C. or Article 226 of the Constitution of India for quashing in appropriate cases.

31. The aforesaid principles laid down in ***Debendra Nath***'s case applies to the facts of the present case. Hence, I am afraid that the discharge applications filed on the basis of proceedings under Sections 6A and 6C of the Essential Commodities Act cannot be entertained.

32. This takes me to the second portion of the argument as to whether this court can convert these revision into petitions for quash and deal with the same. It has been settled by the Supreme Court in ***Pepsi Foods Ltd and Another v. Special Judicial Magistrate and Others***, AIR 1998 SC 128 and the recent judgment in ***Akanksha Arora v. Tanay Maben***, 2024 INSC 962 that the nomenclature does not matter and the High Court can always convert a petition under Section 397 to that of Section 482 of Cr.P.C. or by exercising the constitutional power under Articles 226 or 227 of the Constitution of India and



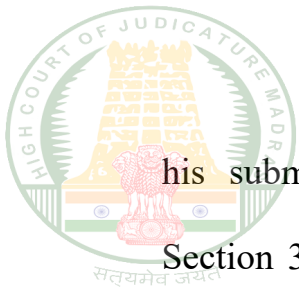
quash the proceedings. For the fact that this court has the jurisdiction to do so does not mean that the power should be exercised in an automaton manner.

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33. A careful reading of the charge sheet discloses that apart from the offence under Section 7 of the Essential Commodities Act, the petitioners have also been accused under Section 420 of IPC and under the provisions of the Arms Act. The offence under the Arms Act arises on account of violation of license condition.

34. Mr.A.Ramesh has been kind enough to produce a copy of the license along with the typed set of papers. A perusal of the license shows that the second petitioner in Crl.R.C.No.1291 of 2026 was licenced from 01.01.2002 to 31.12.2004 for an annual production capacity of 3285 MTs of Potassium Chlorate. The charge sheet shows that far exceeding this capacity, the petitioners had consistently from 2004 -05 till 2009-10 had manufactured between 1624.25 MTs to 1035.65 MTs and for some years, he had exceeded 4000 MTs in excess. It is here, I have to take note of the argument of Mr.Mohan distinguishing Sections 3 and 5 of the Arms Act.

35. It is the plea of Mr.Ramesh that to launch a proceeding under Section 3 of the Arms Act, sanction is necessary from the Collector under Section 39 of the said Act. *Prima facie*, I am of the view that Mr.Mohan might be correct in



his submission. The word “*manufacturer*” is conspicuously absent under Section 3. However, it is found under Section 5 of the Arms Act. Section 39 does not require obtaining of sanction for offence under Section 5, but only to Section 3 of the Arms Act. Therefore, the plea of sanction also has to fail.

36. With respect to Sections 120B and 420 of IPC, a reading of the charge sheet indicates that the Government of India has been importing Potassium Chloride. While it was selling this commodity at highly subsidised rates for consumption by the agricultural sector, the said commodity was sold for use of industrial sector at more or less the price in which it was imported. The difference in price was borne by the Union of India by way of subsidy.

37. I have already pointed out that the gist of the case is that subsidised potassium chloride was diverted by the dealers who were called upon to sell it only for agricultural use, thereby causing huge loss to the Union of India. As rightly contended by Mr.Mohan, even if the prosecution was to take into consideration the proceedings under Sections 6A and 6C of the Essential Commodities Act, they would still have a case with respect to excess manufacture of potassium chlorate as well as with respect to procurement of 1000 MTS of potassium chloride meant for agricultural purpose diverted for industrial purpose.



38. In the light of the above discussions, I am not inclined to accept the submissions of the petitioners. The revisions are dismissed. Consequently, the connected miscellaneous petitions are closed.

26-10-2026

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Index: Yes/No

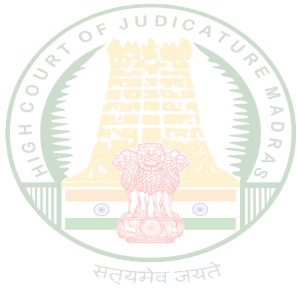
Speaking/Non-speaking order

Neutral Citation: Yes/No

To

1. The Superintendent of Police
Central Bureau of Investigation (CBI),
Economics Offence Wing (EOW).
Chennai.

2. The Public Prosecutor,
High Court of Madras



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CRL RC No. 1291 of 2



Order QR

V.LAKSHMINARAYANAN J.

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**CRL RC No. 1291 of 2026
AND
CRL RC NO. 1292 OF 2026, CRL MP NO. 10851 OF 2026,
CRL MP NO. 10846 OF 2026**

26-10-2026