



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION (APL) NO. 418 OF 2020**

1. Suraj s/o Arunrao Wankhede (**Dead**)
Aged about : 34 Years; Occu : Business;
R/o Sundarban, Warora, Tahsil Warora,
District Chandrapur.

**[Applicant No.1 is deleted as per Court's
order dtd.9.1.2021]**

2. Samir s/o Arunrao Wankhede
Aged about : 32 Years; Occu : Business; R/o
Sundarban, Warora, Tahsil Warora, District
Chandrapur.

... **APPLICANTS**

VERSUS

1. The State of Maharashtra
through the Police Station Officer, Police
Station, Wadki, Tahsil Ralegaon, District
Yavatmal.
2. Sanjay Janrao Pathak
Aged about : 57 Years; Occu : Agricultural
Officer, Ralegaon Panchayat Samiti,
Ralegaon, Tahsil Ralegaon, District
Yavatmal.

... **RESPONDENTS**

Mr. A. A. Dhawas, Advocate for Applicants.
Ms. D. I. Charlewar, APP for Respondent No.1/State.

<u>CORAM</u>	: PRAVIN S. PATIL, J.
<u>ARGUMENTS HEARD ON</u>	: FEBRUARY 02, 2026
<u>PRONOUNCED ON</u>	: FEBRUARY 16, 2026.

JUDGMENT

. Heard. **Rule.** Rule made returnable forthwith. Heard finally with consent of the learned Counsel for both sides.

2. By the present Application, the Applicants are seeking quashment of Regular Criminal Case No. 83/2019 pending on the file of Judicial Magistrate First Class, Ralegaon, District Yavatmal and Chargesheet No. 216/2019 dated 5/10/2019 arising out of Crime No. 161/2018 registered with Police Station, Wadki, Tahsil Ralegaon, District Yavatmal for the offence punishable under Sections 420, 463, 465, 468 and 471 of Indian Penal Code read with Section 15 of the Environment (Protection) Act, 1986, Sections 7, 8, 9, 10, 11, 12 and 13 of Seeds Act, 1968 and Rule 7 of the Seeds Rules, 1976, Sections 2(8) and 12 of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009, Sections 3, 9(c), 10(ch) of Cotton Seeds Rule, 2010 and Sections 3, 7, 8, 9, 10 of Essential Commodities Act, 1955.

3. It is the submission of the Applicants that there is no seizure of any contraband articles from their custody. The only allegation against them is that as per the statement of co-accused that fertilisers were supplied by the

Applicants, Chargesheet came to be filed against them in the matter. However, considering the allegations, which are levelled against them, do not make out any offence as alleged against them, hence, they sought indulgence of this Court in the matter.

4. It is submitted by the Applicants that both the Applicants were Proprietors of Suraj Agro Agency. During the pendency of the present Application, Applicant No.1 is expired and now only the Applicant No.2 is surviving accused in the present Application.

5. The prosecution case in brief is that, Respondent No.2 is working as Taluka Agricultural Officer, Panchayat Samiti, Ralegaon, District Yavatmal. On receipt of information from the Police Station, Wadki, Tahsil Ralegaon, District Yavatmal that Accused No.1 Pramod Bhaurao Dahule R/o Khairi, Tahsil Ralegaon, District Yavatmal has illegally stocked the prohibited cotton seeds and other material, Respondent No.2 along with other staff members raided the house of the Accused No.1 – Pramod Dahule. During search of the house, he seized six plastic bags containing prohibited cotton seeds of different brands, as such, total 292 bags of cotton seeds were seized, which were found to be prohibited in the State of Maharashtra.

6. It is further alleged that upon enquiry from the Accused No.1 Pramod, it is revealed that he had purchased those prohibited cotton seeds bags from the shop of present Applicant. Accordingly, the Respondent No.2 had raided the shop of the present Applicant namely, M/s Suraj Agro Agency on 22/5/2018. But no prohibited cotton seeds were seized from the Applicant. However, on the basis of statement of Accused No.1 that Applicant has made available the cotton seeds from M/s Suraj Agro Agency, Applicant is chargesheeted in the matter.

7. The learned Counsel for Applicant submitted that the offence under Sections 420, 463, 465, 468 and 471 of Indian Penal Code are not made out against them. It is submitted that to attract Section 420 of Indian Penal Code, there should be specific allegations to constitute the offence of cheating or it should demonstrate that a person has been induced either fraudulently or dishonestly to deliver any property to any person or consent of any person shall retain in property. However, in the present case, no allegation is made against the present Applicant that he had dishonestly or by deceiving to anyone delivered any property to the co-accused or make, alter or destroy or anything signed or sealed which is capable of being converted into the valuable security. Hence, according to the learned Counsel for Applicant in

absence of any of the ingredients of Section 415 of the Indian Penal Code no offence is attracted in the matter.

8. In respect of Sections 463, 465 and 471 of Indian Penal Code, it is pointed out by the learned Counsel for Applicant that to attract these offences of forgery, there should be specific mention of preparing false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed by him. But in the entire chargesheet there are no such allegations against the Applicant in the matter.

9. The Applicant, to substantiate his submission, has relied upon the Judgment of the Hon'ble Supreme Court of India in the case of ***Deepak Gaba and Others V/s State of Uttar Pradesh and Another, (2023) 3 Supreme Court Cases 423***, wherein the Hon'ble Supreme Court has considered these provisions and its applicability by holding that assertions made in the complaint failed to establish the conditions set out under Sections 420 and 471 of IPC, the offence cannot be attracted in the matter. In this regard, the observations made by the Hon'ble Supreme Court in paragraph Nos. 18 and 21 to 24, which are relevant, reproduced as under :

“18. In order to apply Section 420 IPC, namely, cheating and dishonestly inducing delivery of property, the ingredients of Section 415 IPC have to be satisfied. To constitute an offence of cheating under Section 415 IPC, a person should be induced, either fraudulently or dishonestly, to deliver any property to any person, or consent that any person shall retain any property. The second class of acts set forth in the section is the intentional inducement of doing or omitting to do anything which the person deceived would not do or omit to do, if she were not so deceived. Thus, the sine qua non of Section 415 IPC is “fraudulence”, “dishonesty”, or “intentional inducement”, and the absence of these elements would debase the offence of cheating.

21. Section 471 IPC is also not attracted. This Section is applicable when a person fraudulently or dishonestly uses as genuine any document or electronic record. This Court in Mohd. Ibrahim, has elucidated that the condition precedent of an offence under Section 471 IPC is forgery by making a false document or false electronic record or part thereof. Further, to constitute the offence under Section 471 IPC, it has to be proven that the document was “forged” in terms of Section 470, and “false” in terms of Section 464 IPC.

22. Section 470 lays down that a document is “forged” if there is :
(i) fraudulent or dishonest use of a document as genuine; and
(ii) knowledge or reasonable belief on the part of the person using the document that it is a forged one.
Section 470 defines a “forged document” as a false document made by forgery.

23. As per Section 464 IPC, a person is said to have made a “false document” :
(i) if he has made or executed a document claiming to be someone else or authorised by someone else;
(ii) if he has altered or tampered a document; or
(iii) if he has obtained a document by practising deception, or from a person not in control of his senses.

24. Unless the document is false and forged in terms of Sections 464 and 470 IPC respectively, the requirement of Section 471 IPC would not be met."

10. In respect of offence under Sections 7, 8, 9, 10, 11 and 13 of the Seeds Act, 1968 and Rule 3 of the Seeds Control Order 1983, the Applicant has relied upon the Judgment of this Court in the case of ***Korra Srinivas Rao Krishnamurthy & Another V/s State of Maharashtra & Others, 2002 (Supp.2) Bom.C.R. 89***, wherein in paragraph No.17 this Court has observed as under :

"17. The contention of the learned Advocate for the respondents is that the expression "launch proceedings" would include lodging of complaint either to the Court or to the Police Authorities. It is further contended that the expression "supplier" would include manufacturer, seller or any other dealer in the seeds. As far as the contention regarding the scope of the expression "supplier" is concerned, there cannot be any doubt that "supplier" would include all those persons dealing with the supply of seeds to the farmers. Whether supplier would also include manufacture or not would certainly depend upon the facts of each case. Unless it is shown that the manufacturer is also either directly or indirectly concerned with the supply of seeds to the farmers, he cannot be considered as "supplier" merely because he is manufacturer. In case if seeds are supplied by the manufacturer to a particular farmer or a person for the utilization thereof by such farmer or person in a particular land and the said persons instead of utilizing the said seeds, supplies the said seeds to a third person, then the manufacturer cannot be called as a supplier to the third person. However, it will be a matter of evidence, and will depend upon the facts of each case. But, the contention that the expression "launch proceedings" would include lodging of complaint with the police as

well as Court is totally devoid of substance and the same runs counter to the provisions of the sub-rule (2). Sub-rule (2) of Rule 23-A specifically provides that the investigation is to be carried out by the Seed Inspector himself in respect of the complaints of the farmers regarding failure of crop due to defective quality of seeds. Sub-rule (2) itself shows that the Seed Inspector can launch the proceedings only after he comes to the conclusion that the failure of crop is due to quality of seeds, supplied to the farmers being less than the minimum standard notified by the Government. In other words, the provisions contained in Rule 23-A speak of detail investigation by the Seed Inspector by himself on the complaint of farmer due to defective quality of the seeds and the conclusion to be arrived at in that regard by the Seed Inspector himself. Being so, there can be no scope for the police authorities for investigation in such cases. That apart, section 155(2) of Criminal Procedure Code specifically provides that the Police Authorities cannot investigate in the matter when the same is non-cognizable. Once it is clear that the punishment imposable for the offence under the Seeds Act is, less than three years imprisonment, therefore, the same is non-cognizable offence, it cannot be, at the same time, said that merely taking shelter of Rule 23-A(2), the police authorities will get powers to investigate into the matter. The specific provisions in the Code deprives the police authorities to investigate in the matters relating to non-cognizable offences. Being so, the submission on the point of scope of expression "launching proceedings" in sub-rule (2) of Rule 23-A of the Seeds Rule, of the learned Advocate for the Seed Inspector, are absolutely devoid of substance. Besides, as rightly submitted by the learned Advocate for the petitioners, sub-rule (2) specifically speaks about launching of proceedings in relation to the contravention of the provisions of the Act and Rules made thereunder and not relating to the offence which can be said to be punishable under the Indian Penal Code."

11. On the basis of this Judgment it is the submission of the present

Applicant that offences under the provisions of Seeds Act, 1968 and Seeds Control Order, 1983 Police Authorities cannot investigate in the matter. According to the Applicant, offences under the Seeds Act and the Seeds Control Order, 1983 provides the punishment less than three years imprisonment, and therefore, the same are non-cognizable offences. Hence, they cannot be investigated by the police authorities, in view of Section 155(2) of the Code of Criminal Procedure.

12. According to the Applicant, the mechanism has been provided under Rule 23-A of the Seeds Rule, 1968 to initiate complaint but in the present matter no such complaint has been lodged against the present Applicants, and therefore, in absence of any investigation at the instance of Seed Inspector as contemplated under the Seeds Act and Rules framed thereunder, no action can be initiated against the present Applicants.

13. In respect of the offence under Section 15 of the Environment (Protection) Act, 1986, from the perusal of the complaint as well as chargesheet, there is absolutely no allegation that Applicants have done anything which is resulted into the discharge or emission of any environmental pollution in cases of standard prescribed Section 15 of the Environment Protection Act, which provides penalty for contravention of the provisions of

the said Act. However, the allegations made in the complaint as well as material collected during investigation nowhere disclosed the basic ingredients of the offence punishable under Section 15 of the Environment Protection Act. Hence, the prosecution under the provisions of Environment Protection Act cannot be continued against the Applicant in the matter.

14. In respect of Sections 2 (8) and 12 of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and fixation of Sale Price) Act, 2009, it is the submission of the learned Counsel for Applicant that punishment under Section 12 is provided when the person found in his possession for sale, any cotton seeds which are misbranded or any act of like nature. In the present case, admittedly no cotton seeds were seized from the present Applicant, which are alleged to be misbranded. The same were seized from the Accused No.1, who is not a party to the present proceeding. Hence, according to the Applicant, if there is no seizure nor he found in possession for sale any cotton seeds which are misbranded, this offence is not attracted in the matter.

15. In respect of Sections 3, 7, 8, 9, 10 of the Essential Commodities Act, 1955, the submission of the learned Counsel for Applicant is that, these provisions come into operation only when any order is made under Section 3

of the Essential Commodities Act and same found to be contravened by the Applicant in the matter. However, in the present matter, there is no specific allegation on the part of Respondent No.2 that any notification was issued under Section 3 of declaring the cotton seeds which are necessary to be in control by the Central Government for maintaining or increasing supply or for securing equitable distribution and availability of fair prices. Hence, according to the Applicant it is essential for bringing the offence under Section 7 which must be demonstrated that some order has been made under Section 3 and that order has been controverted. However, there are no such allegations against the present Applicant in the matter, and therefore, this offence also cannot be registered against him.

16. The learned Counsel for Applicant has made a submission that in view of the Judgment of *Korra Srinivas Rao Krishnamurthy (supra)* the Police Authorities cannot initiate criminal proceeding against him and only remedy is available to them to file the proceeding under Rule 23-A of the Seed Rules, 1968. Hence, according to the learned Counsel, the entire proceedings which are initiated against the Applicant are vitiated for the aforesaid reasons.

17. *Per contra*, it is the submission of the learned APP that there is no specific bar to investigate into the offences which are registered under the

provisions of Indian Penal Code. The learned APP has pointed out from paragraph No.17 of the Judgment in the case of ***Korra Srinivas Rao Krishnamurthy*** (*supra*) which is reproduced hereinabove, wherein this Court has stated that the Police Authorities are only restricted to investigate into the offence which are non-cognizable under Section 155(2) of the Code of Criminal Procedure, but the Police Authorities can investigate the offence under the provisions of Indian Penal Code. Accordingly, the investigation is done in the matter and some material has been collected against the Applicant as he found while supplying the contraband cotton seeds to the Accused No.1. Hence, according to the learned APP, it is not a fit case to quash and set aside the entire chargesheet against the present Applicant.

18. In the light of rival submissions made by the learned Counsel for Applicant, the learned APP and the peculiar facts of the present case, it is clear that the Applicant is Proprietor of M/s Suraj Agro Agency. He is possessing the valid license for business of dealing in a seeds and fertilisers. It is not a case of the of prosecution that after the co-accused has informed that cotton seeds were purchased from the present Applicants, they found anything from the godown of M/s Suraj Agro Agency. On the contrary, seizure panchanama dated 22/5/2018 clearly states that no incriminating material has been found from

M/s Suraj Agro Agency. Hence, in absence of any material, only on the statement of co-accused, he cannot be prosecuted in the matter.

19. It is also pertinent to note that to attract the offence under the various enactment, the specific role and procedure is required to be followed as stated in above paras. However, in the present case, merely on the basis of the statement of one of the witness that Applicant has supplied the cotton seeds to the main accused, under the various provisions i.e. Indian Penal Code, Seeds Act, Seeds Control Order, 1983, Environment (Protection) Act, Essential Commodities Act and Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009 brought in force by the prosecution. Hence, in my opinion, as pointed out by the Applicant, no offence is made out under these various enactments against the present Applicants, and therefore, continuation of prosecution against the Applicants is nothing but the abuse of process of law.

20. It is pertinent to note that under theses various enactments, specific procedure is provided as to how the action should be taken in such cases and in that regard, Officers of the concerned department are authorised to take action and deal with the matter. But in the present matter, considering the role attributed to the Applicant, the charges are not registered against him

in that capacity. In my opinion, offence under Sections 420, 463, 465, 468 and 471 of Indian Penal Code are at all not attracted against the Applicant in view of allegation and role attributed to him in the matter. So also offence under the provisions of Environment (Protection) Act, 1986 and Essential Commodities Act, 1955 is not made out in view of allegation against him. In respect of Seeds Act and Rules, the specific procedure incorporated under its various provisions and provided punishment less than three years imprisonment, therefore, under Section 155(2) of the Code of Criminal Procedure, same cannot be investigated by the Police Authorities.

21. The Applicant has demonstrated that neither the offence is made out against him nor due procedure as provided under the statute is being followed in the matter.

22. In the circumstances, I do not find any merit to prosecute the present Applicants in the matter. Continuation of the criminal proceeding against him would nothing but the abuses of process of law, and therefore, interference of this Court is necessary in the matter. Accordingly, I proceed to pass following order.

ORDER

1. Criminal Application is allowed.

2. Regular Criminal Case No. 83/2019 pending on the file of Judicial Magistrate First Class, Ralegaon, District Yavatmal and Chargesheet No. 216/2019 dated 5/10/2019 arising out of Crime No. 161/2018 registered with Police Station, Wadki, Tahsil Ralegaon, District Yavatmal for the offence punishable under Sections 420, 463, 465, 468 and 471 of Indian Penal Code read with Section 15 of the Environment (Protection) Act, 1986, Sections 7, 8, 9, 10, 11, 12 and 13 of Seeds Act, 1968 and Rule 7 of the Seeds Rules, 1976, Sections 2(8) and 12 of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009, Sections 3, 9(c), 10(ch) of Cotton Seeds Rule, 2010 and Sections 3, 7, 8, 9, 10 of Essential Commodities Act, 1955 are hereby quashed and set aside.

3. Rule is made absolute in above terms. No order as to costs.

23. Since the Criminal Application is disposed of, pending Criminal Application No. 472/2025 does not survive. The same stands disposed of accordingly.

[PRAVIN S. PATIL, J.]