IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CR. WRIT PETITION NO. 4415 OF 2014

1 Shri Vasudeo Tanaji Narvekar ... Petitioner
Aged 60 years, Occ. Retired,
Residing at At & Post Vilvade, Tal. Lanja,
District Ratnagiri.

Versus

1. The State of Maharashtra
2. The Inspector ... Respondents
Legal Metrology (Weights & Measures)
Rajapur Division, having address at
Ashirwad Bunglow, Behind Kotre Hotel,
Lanja, Taluka Lanja, District Ratnagiri.

Mr. Atharva R.B. i/b. Ms. Saniya Patki for the Petitioner.
Mrs. S.N. Deshmukh, A.P.P. for the Respondent-State.
Officer : *Mr. Madhusudhan D. Patil, Inspector of Legal Metrology, Rajapur Division, District Ratnagiri, present.*

Coram : RANJITSINHA RAJA BHONSALE, J.

Reserved on : 8th MAY 2026.

Pronounced on : 29th JUNE 2026.

JUDGMENT :

1. By the present Petition filed under Article 227 of the Constitution of India and Section 482 of the Criminal Procedure Code (for short, "Cr.P.C.") the Petitioner seeks to challenge the order of issuance of process dated 24th

July 2013, passed by the learned Judicial Magistrate First Class, Lanja in S.C.C. No. 121 of 2013 so also the Judgment and order dated 18th September 2014, passed by the learned Additional Sessions Judge, Ratnagiri, dismissing the Criminal Revision Application No. 25 of 2013.

2. Heard Mr. Atharva R.B., learned counsel for the Petitioner and Mrs. Deshmukh, learned A.P.P. for the Respondents-State.

3. Briefly stated, the case of the prosecution is an under:-

3.1. The Respondent No.2 (original complainant) is the Inspector of Legal Metrology, who allegedly visited the shop of the Petitioner on 29th March 2013. During the inspection, it was allegedly found that, the Petitioner sold a Pepsi bottle of 600 ml having a MRP of Rs.25/-, for Rs.26/- That, a bill of Rs.26/- was given to the Respondent No.2. Based on the said facts, a complaint was filed before the Judicial Magistrate First Class, Lanja.

3.2. On 24th July 2013, the Learned Judicial Magistrate issued process against the Petitioner for commission of an offence under Rule 18(2) read with Rule 32(2) of The Legal Metrology (Packaged Commodities) Rules, 2011 (for short, "the said Rules"). That, Summons Case No. 121 of 2013 is registered against the Petitioner.

4. The order of issuance of process was challenged by the Petitioner by filing Revision Application No.25 of 2013 before the Sessions Court at Ratnagiri, which came to be dismissed on 18th September 2014.

5. Learned Advocate for the Petitioner would submit that,

5.1. An offence for contravention of Rule 18(2) of the said Rules, which is punishable under Rule 32(2) has been alleged. That, for the inspection which was conducted on 29th March 2013, the complaint has been filed only on 24th July 2013.

5.2. The complaint is a mala fide action in as much as the complainant visited the Petitioner's flour mill and enquired in respect of the shop of the Petitioner's wife and demanded an amount of Rs.5,000/- to allow the sales/activities to continue. That, on the refusal of the Petitioner to comply with the demand, the complainant allegedly threatened him. That, the Petitioner was forced to sign authority letter, which was in english language. That, the Petitioner does not understand English language.

5.3. That, in order to determine and fix the liability under the Legal Metrology Act, 2009, it would be necessary for the complainant to identify and specify the role of the Petitioner, whether he was the owner, manager or worker of the said shop. That, the entire complaint proceeds on an incorrect premise that the shop was owned by the Petitioner. It is an admitted position that the said shop was run by the Petitioner's wife from where the sale of the said bottle took place.

5.4. That, the Petitioner has his flour mill. That, as per the directions of the Petitioner's wife, the Petitioner had only prepared a bill of Rs.26/- after the sale of the Pepsi bottle.

5.5. It is a clear position and is evident by the statement of the complainant dated 27th September 2013 addressed to the Assistant Controller of Legal Metrology that, the Petitioner's wife has the required licence and is a permit holder for the shop. That, perusal of the complaint would indicate that, the complainant has failed to cite any independent witness for the official inspection.

5.6. As regards the said inspection, it was necessary that the panchanama of the inspection be drawn up by the independent witness to verify the recovery of evidence and occurrence of said incident.

5.7. The order of issuance of process does not deal with certain crucial and important aspect, which go to the root of the matter. That, the complaint is a stereotype blank form, which does not mention whether the Petitioner is the owner or manager of the shop and whether being so, he is liable for any action under the said Act/Rules. That, complaint does not refer to any offence, which has been committed by the Petitioner under the said Rules. That, the allegations in the complaint are contradicted by the letter dated 15th July 2013.

5.8. That, the complaint has been filed at a belated stage, only when the Petitioner refused to give in the illegal demand of Rs.5,000/-.

5.9. That, the Petitioner had made a grievance to the Controller and an inquiry was sought into the said grievances. That, in the said inquiry, the Respondent No.2 vide his letter dated 15th July 2013 has stated the facts which took place on 29th March 2013 at the Petitioner's flour mill as well as the fair price shop of the Petitioner's wife. That, the enquiry was pending before the Controller. That, the Respondent No.2 in letter dated 15th July 2013, has admitted that on 29th March 2013 he visited the fair price shop of the Petitioner's wife. That, the Respondent No.2 purchased the Pepsi bottle of 600 ml from the Petitioner's wife shop for Rs.26/-. That, the contents of the letter itself show that the bottle was purchased from the Petitioner's wife shop and not from the Petitioner. That, the Petitioner's wife has not been made accused and the Petitioner cannot be held responsible for the acts committed by his wife. That, the order of issuance of process and order passed by the Sessions Court in Revision does not consider the explanation dated 15th July 2013.

6. Learned A.G.P. appearing for the Respondents would submit that:-

6.1. By selling Pepsi bottle for Rs.26/-, i.e. Rs.1/- more than the MRP, the Petitioner has committed the offence under the said Rules. That, the bill is issued by the Petitioner.

6.2. The Petitioner was, infact the person running the shop. That, the complaint specifically mentions that during the inspection it was found that the Petitioner sold the Pepsi bottle and issued the bill, which was even duly signed by the Petitioner. That, by selling the Pepsi bottle for Rs.26/- i.e. Rs.1/- more than the declared MRP of Rs.25/-, the Petitioner has committed a breach of Rule 18(2) which is punishable under Rule 32(2) of the said Rules.

6.3. The order of issuance of process dated 24th July 2013 is issued after considering the complaint and being satisfied that a prima facie case has been made out under Rule 32(2) of the said Rules.

6.4. That, the order passed by the Additional Sessions Judge, Ratnagiri in Revision is in accordance with law and that the bill of the Pepsi bottle was issued by the Petitioner. That, the Revisional Court was required only to examine the prima facie correctness, legality and propriety of the impugned order issuing process. That, the trial Court has applied its mind to the issuance of process and no fault can be found therewith.

6.5. The inspection was done on 29th March 2013 and that a seizure panchanama was duly prepared, which clearly makes out an offence. That, Respondent No.2 had sent a notice to the Petitioner dated 14th June 2013 seeking his reply for the contravention of Rule 18(2) which is punishable under Rule 32(2) of the said Rules. That, the Petitioner vide his reply dated 28th June 2013 has admitted the incident, (i) the visit of Respondent No.2 to the Petitioner's premises on 29th March 2013, (ii) his presence at the said shop at the said time and (iii) that the Petitioner had signed the said document / bill.

6.6. Prima facie, the Petitioner has violated Rule 18(2) of the said Rules. That, it was mandatory for the retailer not to sell any commodity in packaged form at a price exceeding the retail sale price. That, the Legal Metrology Act, 2009 and the Rules framed thereunder constitute a beneficial legislation aimed at protecting the rights of consumers with regard to the quality of products and the price thereof. That, sale of the commodities over and above the fixed retail price is an offence.

6.7. That, contravention of the provisions of the Rules, wherein no punishment has been provided either in the Act or the Rules, shall be punished with a fine of Rs.2,000/- under Rule 32(2) of the said Rules.

6.8. That, the alleged stand of the Petitioner that a demand of Rs.5,000/- was made by the Respondent No.2 is made only after notice is issued to the Petitioner. That the defence of the Petitioner can be tested only at the time of recording evidence during the trial.

6.9. That, pursuant to Section 48 of the Legal Metrology Act, 2009, the offence of selling products at a price exceeding the Maximum Retail Price is compoundable, and the same may be compounded either before or after institution of prosecution, upon payment of a compounding fee of Rs. 2,000/-.

6.10. That, the Petitioner has an alternate remedy under Section 50(d) of the Legal Metrology Act, 2009, which provides for an appeal against any decision or order made under the present Act by the Metrology Officer. That, the present Petition for quashing would not be maintainable. The Petitioner has not availed of the alternative remedies.

7. Perused the entire record. Perusal of the letter dated 15th July 2013, would indicate that the incident took place on 29th March 2013 at the shop, of the wife of the Petitioner, where she was selling some items. In the said letter dated 15th July 2013, Respondent No.2 has himself admitted that the sale of the Pepsi bottle was undertaken, by the wife of the Petitioner and from her shop. The record indicates that, the sale was done by the wife and at her directions the bill was prepared by the Petitioner. Perusal of the bill which is issued for the said Pepsi bottle indicates that, there is a overwriting on the bill in respect of the month in as much as the date of 29th March 2013 is shown to be as 29th June 2013. The correct date is 29th March 2013 as is evident from the letter dated 15th July 2013. In my opinion the overwriting even otherwise makes the entire case doubtful.

8. Considering the contents of the said letter, it is clear that the sale was conducted by the wife of the Petitioner. The complaint has been filed only against the Petitioner. The wife of the Petitioner is not made accused nor are any proceeding initiated against her.

9. That, the Rule 18(2) of the Legal Metrology (Packaged Commodities

Rule, 2011) would indicate that, no retail dealer or other person including the manufacturer, packer, importer or wholesale dealer shall make a sale of any packaging form at a price exceeding the retail sale price thereof. Rule 18(2) is applicable only to a retail dealer or person making the said sale. Admittedly as per the stand of Respondent No.2, the sale has been conducted by the wife of the Petitioner.

10. A perusal of the definition of "sale' as defined under Section 2(r) of the Legal Metrology Act, 2009, indicates that, "Sale", with its grammatical variations and cognate expressions, means transfer of property in any weight, measure or other goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes a transfer of any weight, measure or other goods on the hire-purchase system or any other system of payment by installments, but does not include a mortgage or hypothecation of, or a charge or pledge on, such weight, measure or other goods. The case of Respondent No.2 in letter dated 15th July 2013 is that, the sale was by the wife of the Petitioner. It appears that, only the bill was made by the Petitioner on the instructions of his wife. The act of making a bill cannot be termed as conducting a sale, as making a bill would only occur after concluding the sale, which is already been concluded. The complaint has proceeded on a totally erroneous assumption or misunderstanding that the sale is made by the Petitioner. It appears that as the Petitioner is the husband, he has been made accused on some misconception or misunderstanding. Criminal proceedings have serious consequences and cannot be set into motion as a matter of course.

11. The other argument advanced by the learned A.P.P. is that, an alternate remedy of filing an appeal was available, to the Petitioner under Section 50(d) of the Legal Metrology Act. Having an alternate remedy is not an absolute bar, and in special circumstances or for good reasons, the Petition can be entertained in exceptional circumstances. The role of exhausting the alternate statutory remedy is a rule of self restraint, policy, convenience and discretion. In the present case, the facts indicate that, the person who sold the soft drink i.e. the wife of the Petitioner has not been prosecuted and not made an accused. The Petitioner appears to be prosecuted only because his wife owns the shop. It is not the case of Respondent No. 2 that, the shop was run by the Petitioner. Such prosecution is not supported by Rule 18(2) of the rules nor by Section 2(r) of the Legal Metrology Act. In my view the prosecution is misconceived and misdirected, especially when even the complainant admits that, the sale is made by the wife. In such circumstances, it would be only in the interest of justice to entertain the petition. In the peculiar facts of the present case, the petition ought not to be rejected only on the ground of a alternative remedy being available.

12. Considering the peculiar facts of the present case that, the Petitioner has alleged *mala fide* against Respondent No.2, there is overwriting on the bill, and most importantly the contents/admission of the Respondent No.2 in the letter dated 15th July 2013, this would be a fit and proper case to invoke the powers under Section 482 of the Code of Criminal Procedure (now Section 528 of BNSS). It would only be in the interest of justice and to prevent the abuse of the process of law that the order of issuance of process dated 24th July 2013 and the Order dated 18th September 2014 passed by the learned Additional Sessions Judge, Ratnagiri in Criminal Revision Application No. 25 of 2013 are quashed and set aside.

13. In view thereof, Petition is allowed in terms of prayer clause (b).

14. Rule is made absolute accordingly.

[RANJITSINHA RAJA BHONSALE, J.]

OMKAR SHIVAHAR KUMBHAKARN

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