(2002) 01 BOM CK 0042

In the Bombay High Court

Case No : Criminal Writ Petition No''s. 245 and 246 of 1998 and 49, 50, 51 and 1283 of 1999 and Criminal Application No''s. 1282 of 1999 and 669 of 2000

Keki Bomi Dadiseth and Others — APPELLANT

Vs

The State of Maharashtra — RESPONDENT

Date of Decision : 22-01-2002

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 154, 254, 482
Negotiable Instruments Act, 1881 (NI) — Section 141
Prevention of Food Adulteration Act, 1954 — Section 16(1), 17, 17(1), 17(2), 17(3)
Prevention of Food Adulteration Rules, 1955 — Rule 54, 55, 55(6)

Citation : (2002) BomCR(Cri) 761 : (2002) 3 MhLj 246

Hon'ble Judges : D.D. Sinha, J

Bench : Single Bench

Advocate : V.R. Manohar, S.V. Manohar and A.A. Naik, for the Appellant; N.S. Jog, K.S. Dhote and D.B. Patel, Additional Public Prosecutors, for the Respondent

Final Decision : Allowed

Judgement

1. Heard Shri Manohar, learned Senior Counsel for the petitioners, and Mrs. Jog, Shri Jichkar, Shri Loney, Shri Dhote and Shri Patel, learned Additional Public Prosecutors for the respondent State.

2. In all these matters, the accused/Directors are of M/s. Brooke Bond Lipton India Limited, which is amalgamated with Hindustan Lever Limited with effect from 21.3.1997. The sample of product manufactured by the Company found to be adulterated is also the same, namely, "Kissan Mixed Fruit Jam". The Company prosecuted is also the same, i.e. M/s. Brooke Bond Lipton India Limited except in Criminal Application No. 669/2000 where Company, which is prosecuted is Hindustan Lever Limited and product is "Anik Ghee". The allegations against the accused/Directors made in the complaints are identical in nature and process is issued by the Magistrates in all these cases for contravention of provisions of

Prevention of Food Adulteration Act, 1954 and Rules framed thereunder. Therefore, all these matters are heard together and disposed of by the common judgment.

3. These proceedings are directed against the orders passed by the Magistrates whereby whereby process is issued in the complaints filed by the respondent State alleging violation of provisions of Prevention of Food Adulteration Act, 1954 (hereinafter referred to as "the Act") against the petitioners.

4. Shri Manohar, learned Senior Counsel for the petitioners, submits that the petitioners in Criminal Writ Petition No. 245/1998, as on 1.10.1996, were Directors of Board of Brooke Bond Lipton (India) Limited, which was a Public Limited Company registered under the provisions of Companies Act, 1956 having its registered Office at Calcutta. Under the scheme of amalgamation sanctioned by the High Court of Calcutta and Bombay, the said Company Brooke Bond Lipton (India) Limited was allowed to be amalgamated with Hindustan Lever Limited with effect from 21.3.1997 and Brooke Bond India Limited ceased to be a legal entity from the said date.

5. It is contended by learned Senior Counsel Shri Manohar that in the year 1997, Brooke Bond India Limited, was inter alia engaged in business of manufacture and distribution of products, such as foods, beverages, oil and dairy fats including products under Kissan range such as mixed fruit jam. Being a large organization and for efficient and effective operation, business is structured into various Divisions/ Departments, each headed by the senior Official, who is responsible for conduct of business for the job/area assigned to him. For sale and distribution business of the Company in the State of Maharashtra, the Company has nominated Shri Suresh Narayanan, Branch Manager as the person responsible.

6. On 29.1.1997, Shri T.M. Darkar, Food Inspector visited the establishment of M/s. Jain Bhandu, Chitra Chowk, Amravati and from the said establishment, drew samples of product "Kissan Mixed Fruit Jam" for the purpose of analysis under the provisions of the Act. The labels of the said products declared them to be packaged in the month of December 1996 with net weight 500 grams, batch No. 60412-A-2 and manufactured by the Company Brooke Bond Lipton India Limited.

7. It is contended by the learned Senior Counsel for the petitioners that the Food Inspector thereafter forwarded those samples to Public Analyst, Akola for necessary analysis of the product in question. The report of Public Analyst dated 10.3.1997 declared the product as being in violation of provisions of the Act having contained sulphur dioxide in excess of prescribed limit. On the basis of the report of the Public Analyst, Food Inspector has conducted investigation in order to ascertain details in regard to manufacturer, distributor and retailer for taking further action against them by launching prosecution under the provisions of the Act. The Food Inspector obtained information from the Retailer in respect of source of purchase of the product in question and it was found that product

was purchased from the Premier Agencies, Amravati and it was further noticed that Premier Agencies, Amravati purchased the product from M/s. Universal Clearing Agency, Nagpur, which was Agent for the Company Brooke Bond Lipton India Limited. The name of the Company Brooke Bond Lipton India Limited is also declared on the label of Kissan Jam as manufacturer of the said product. It is contended by the learned Counsel for the petitioners that the Food Inspector was given the requisite information sought by him and was informed that the Company in terms of the provisions of the Act had appointed a nominee for conduct of its business in the State of Maharashtra. The name of the nominee was also informed, i.e. Suresh Narayanan. The Food Inspector has acknowledged receipt of copy of nomination for Shri Suresh Narayanan vide his letter dated 8.1.1998. The said nomination form was valid in terms of Section 17(3) of the Act at the relevant time and establishment was in existence on 29.1.1997 when the samples of the product in question were taken by the Food Inspector as referred to hereinabove.

8. The learned Senior Counsel for the petitioner further submits that in terms of Section 20, the respondent no.1 sought and obtained consent from the Joint Commissioner, Food and Products Administration, Amravati Shri S.S. Urankar on 8.5.1998. Shri Urankar at the relevant time was the appropriate Authority for grant of sanction for both the regions, i.e. Akola and Amravati and, therefore, he on 6.5.1998 granted consent for prosecution in regard to a similar offence for adulteration of "Kissan Mixed Fruit Jam" sampled from Akot and Akola. The prosecution has been initiated before the Court of Chief Judicial Magistrate, Amravati being Case No. 76/98. The prosecution has chosen only to make members of the Board of Directors as accused and did not launch any prosecution against nominee of the Company.

9. It is further contended by learned Senior Counsel Shri Manohar that the complaints being in violation of provisions of Section 17(1) of the Act, the orders of issuance of process against the present Directors cannot be sustained. It is vehemently contended that even assuming that there is no valid nomination (though not accepting the same), in the absence of any specific averment in the complaints that the Directors were in-charge of conduct of business of the Company and were also responsible for day to day administration of the Company or that offence was committed with the consent or connivance of the Directors or due to any negligence on their part, no offence is made out against the Directors of the Company.

10. It is further contended by the learned Senior Counsel for the petitioners that the Magistrates have failed to appreciate that the complaints are abuse of process of Court as much as no offence has been disclosed against the above referred Directors of the Company and they are made accused merely on the allegations that they were on the Board of Directors of the Company. It is further contended that recitals in the complaints and allegations contained therein as well as consent granted by the competent Authority on the basis of which

complaints are filed, do not disclose any allegation or nothing is on the record to connect the Directors of the Company with the offence alleged to have been committed under the provisions of the Act. There are no allegations in the complaints in respect of conduct, consent or negligence made or attributable against any of the Directors (accused) and, therefore, complaints are misconceived and orders of issuance of process passed by the Magistrates are bad in law.

11. It is also contended by learned Senior Counsel Shri Manohar that the Magistrates failed to appreciate that the Directors of the Company are made accused solely because at the relevant time they were on the Board of Directors of the Company. The complaints are totally silent whether offence has been committed with the consent or connivance of these Directors or due to any negligence on the part of these Directors. Similarly, there is not even a whisper in the complaints that any one of these Directors or all of them were responsible for conduct of business of the Company. It is further contended that in the absence of these averments in the complaints and without adding or subtracting anything in the complaints, if same are read as they are, no offence is made out against the Directors under the provisions of the Act.

12. Learned Senior Counsel Shri Manohar further submits that in order to attract provisions of Section 17(1)(ii) or 17(4), the complaints must clearly allege and disclose that such persons or Directors, as the case may be, at the relevant time, were in-charge of conduct of business of the Company or that the offence was committed with their consent, connivance or same was attributable to any neglect on their part. The complaints are totally silent in this regard and in the absence of such averments in the complaints, no offence is made out against the Directors of the Company. Even the documents filed with the complaints do not disclose any case against the Directors for the offence in question. On the contrary, it is revealed that petitioners are joined as accused only because they happened to be Directors of the Company at the relevant time. The Magistrates, therefore, erred in law in issuing process against the petitioners as well as other Directors of the Company.

13. It is further contended by learned Senior Counsel Shri Manohar that recitals in the complaints do not disclose any offence. In such situation, this Court may exercise power u/s 482 of Code of Criminal Procedure and dismiss the complaints. It is contended that this is a fit case where this Court is expected to exercise power u/s 482 of the Code of Criminal Procedure and quash and set aside the impugned orders as the complaints do not disclose any offence against the Directors. The allegations in the complaints against the above referred Directors are in particular paras and they are identical to para (20) of the complaint in Criminal Writ Petition No. 245/198, which reads thus :

"That, the complainant further charges accused nos. 8 to 20 for committing offence by manufacturing, for sale, distributing for sale, stocking for sale and selling adulterated food article, namely, mixed fruit jam Kissan in contravention of provisions of Section 17(i)17(3) read with Section 2(ia)(a) punishable u/s 16(1)(a)(ii), Section 7(i) read with Section 2(ia)(k) punishable u/s 16(1)(a)(i), Section 7(v) read with Rule 55(6) punishable u/s 16(1)(a)(ii) read with Section 17 of the Prevention of Adulteration Act, 1954 and rules thereunder."

14. It is contended that except the allegations in para 20 of the aforesaid complaint, there are no other averments or allegations in the entire complaint against the above referred Directors of the Company, who are sought to be connected with the offence in question and these allegations are totally short of connecting the above referred accused/Directors with the crime in question and, therefore, this is a fit case where this Court may exercise power u/s 482 of Code of Criminal Procedure and quash and set aside the impugned orders of issuance of process passed by the Magistrates against the petitioners. It is canvassed that there is no alternate remedy available to the petitioners for recalling of process in view of law laid down by the Apex Court in the Case of Rajendra v. Uttam 1993 (3) SCC 134 wherein the Apex Court has held that order of issuance of process is not an interlocutory order, but a final order and, therefore, Magistrate will not have any power to review his own order, which is final in nature as the Code of Criminal Procedure does not confer any power of review on the criminal Court. It is contended by the learned Senior Counsel for the petitioners that in the circumstances, the impugned orders of issuance of process and complaints need to be quashed and set aside. The last contention canvassed by learned Senior Counsel Shri Manohar is that other Directors of the Company, such as G. V. Krishna Rao, S.K. Sinha, David R. Thyman, Udipi Mahesh Rao and Damodaran Nair are also similarly situated and allegations against them in the complaints are also identical in nature. Those allegations in the complaints do not make out any offence, which is charged against these Directors and, therefore, orders of issuance of process issued by the Magistrates in respect of these Directors also may be quashed and set aside. 14)In order to substantiate above contentions, reliance is placed by learned Senior Counsel Shri Manohar on the judgments of Apex Court and High Courts in Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi and Others, , Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, , State of Haryana Vs. Brij Lal Mittal and Others, , R. Banerjee and others Vs. H.D. Dubey and others, , Ashok Chaturvedi and Others Vs. Shitulh Chanchani and Another, , and G. Sagar Suri and another v. State of U.P. and others (2000(1) SCALE 271).

15. Mrs. Jog, learned Additional Public Prosecutor for the respondent State, submits that in Criminal Writ Petition No. 245/1998, on 29.1.1997, the Food Inspector had drawn samples of mixed fruit jam, which was manufactured and marketed by Brooke Bond Lipton India Limited. This food product was reported to be adulterated and on receiving such report, the Food Inspector started investigation for collecting information regarding Company in question. During the course of investigation, it was found that there is no person nominated by the Company as per Section 17(1)(a)(i) of the Act. In the absence of that, persons, who can be prosecuted in regard to offence against the Company, are

contemplated in the provisions of Section 17(i)(a)(ii) read with Section 17(4) of the Act. In the instant case, since nobody was nominated by the Company, the Company was asked by various letters by the Food Inspector to provide information regarding names and addresses of the Directors, who are responsible for conduct of business of the Company.

16. It is contended by the learned Additional Public Prosecutor that though necessary information was sought from the Company by issuing letters by the Food Inspector, no reply was received from the Company. Therefore, there was no alternative for the Food Inspector but to write to the Deputy Director, Department of Food, who was requested to furnish details in this regard, i.e. names of licence holders, who were responsible on a particular date for conducting business of the Company. The Deputy Director vide communication dated 6.2.1998 gave relevant information. He has forwarded the list of Directors of the Company. It is contended that the Deputy Director did not provide material information as to who were in-charge and responsible for conduct of business of the Company at the relevant time and even the name of Managing Director was not informed by the concerned Authority. It is submitted that on the basis of whatever information the prosecution had, the complaints were filed and the petitioners, who were at the relevant time Directors of the Company, were made accused in the present prosecution since the offences were committed by the Company in view of provisions of Section 17 of the Act. It is further canvassed by the learned Additional Public Prosecutor that since there was no proper nomination, the Food Inspector noticed during the course of investigation that the petitioners were the persons responsible and in-charge of the Company and, therefore, they were made accused in the complaints. The documents accompanying the complaints clearly substantiate the allegations in the complaints including sanction given by the Competent Authority.

17. It is further submitted by the learned Additional Public Prosecutor that the petitioners have invoked inherent powers of this Court u/s 482 of Code of Criminal Procedure. However, this power is required to be exercised by this Court in the exceptional circumstances. Whether any offence at this stage has been made out or whether accused are liable to be convicted or defence available to the accused cannot be considered at this interlocutory stage. There is a power with the Magistrate to drop the proceedings if he is satisfied on considering the complaint that there is no offence for which accused could be tried. It is contended that u/s 7(i) of the Act, no person shall himself or by any person on his behalf, manufacture for sale or store or distribute any adulterated food. In the instant case, the Company in question is a manufacturer and the petitioners/ accused are responsible for conduct of the business and are in-charge of the Company as per report of the Deputy Director, Food Department and, therefore, orders of issuance of process are sustainable in law and power u/s 482 of the Code of Criminal Procedure may not be exercised at this stage. It is contended that judgment of the Apex Court in P. Raj Rathinam v. State of Maharashtra 2000 (10) SCC 2529 is relevant for this purpose wherein the Supreme Court in a

similar situation though arising out of offence u/s 141 of Negotiable Instruments Act, observed that such situation should be left to the trial Court concerned to consider at the time of framing of charge instead of quashing the complaint and issuance of process u/s 482 of the Code of Criminal Procedure.

18. It is alternatively contended by the learned Additional Public Prosecutor that if this Court comes to the conclusion that the proceedings have to be dropped, in that event, respondent prays that issue of nomination, whether it is valid or not, may be kept open and subsequently if trial Court at the time of recording of pre-charge evidence comes to the conclusion that accused are guilty, liberty to take cognizance against petitioners may be granted.

19. The last limb of argument of the learned Additional Public Prosecutor is that the case of the Directors of the Company, who are not arrayed as accused, may not be considered since they are not before this Court. The issue can be gone into only when they personally initiate the proceedings for quashing of the complaints and orders of issuance of process. In the present case, the case of those Directors, who are not parties in the present proceedings, cannot be considered.

20. I have given anxious thought to the various contentions canvassed by the learned respective Counsel for the parties and perused the relevant provisions of the Act as well as judgments of the Supreme Court and High Court referred to hereinabove. Before I consider the issue on merits, there are certain undisputed aspects of the matter, which need to be mentioned at the outset.

21. In Criminal Writ Petition No. 245/98, it is not in dispute that at the relevant time, petitioner nos. 1 to 8 and 11 were Directors of the Company, which was then known as Brooke Bond Lipton India Limited and the said Company with effect from 21.3.1997 stood amalgamated with Hindustan Lever Limited and ceased to be a legal entity. On 29.1.1997 the Food Inspector visited the establishment of Ramesh Shankar Jain, i.e. M/s. Jain Bandhu, Chitra Chauk, Amravati. The product from which sample was drawn was "Kissan Mixed Fruit Jam". The said product having batch No. 60412-A-2, net weight 500 grams and date of packaging as December 1996 was purchased. The sample was forwarded to the Public Analyst on 30.1.1997. The report of Public Analyst was received on 10.3.1997. The Public Analyst opined that sample of "Kissan Mixed Fruit Jam" contains sulphur dioxide 164 ppm, which contravenes Rule 55(6) of the Prevention of Food Adulteration Rules, 1955. The Food Inspector sought consent for prosecution, which was granted on 8.5.1998 by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati. The complaint was filed on 18.8.1998 and on the basis of the said complaint, the Chief Judicial Magistrate, Amravati passed the impugned order of issuance of process on 18.8.1998 against petitioners for contravention of provisions of Section 7(i) read with Section 2(ia)(a) punishable u/s 16(1)(a)(ii), Section 7(i) read with Section 2(ia)(k) punishable u/s 16(1)(a)(i) and Section 7(v) read with Rule 55(6) punishable u/s 16(1)(a)(ii) read with Section 17 of the Act and validity of same is

called in question in these proceedings.

22. As far as Criminal Writ Petition No. 246/1998 is concerned, undisputed facts are as follows : The Food Inspector on 3.1.1997 visited M/s. Prerna Traders situated at Akot, District Akola. The sample was taken from the product "Kissan Mixed Fruit Jam", which was purchased from M/s. Brooke Bond Lipton India Limited through the clearing Agent M/s. Universal Clearing Agencies, Mishra Godown, Katol Road, Fetri, Nagpur. The batch number of product is 611009-A-3 and same was packaged in September 1996. The net weight of the product was 200 grams. The same was forwarded to the Public Analyst on 4.1.1997. The report dated 12.2.1997 of the Public Analyst shows that the sample contains sulphur dioxide more than the permissible limit, which is in contravention of Rule 55 of the Prevention of Food Adulteration Rules, 1955. The investigation was carried out by the Food Inspector and necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 6.5.1998. The complaint was filed on 18.8.1998. On the said complaint, Judicial Magistrate, First Class, Akot passed the impugned order of issuance of process on 18.8.1998 for contravention of provisions of Section 7(i) read with Sections 2(ia)(a) and 2(ia)(k) punishable u/s 16(1)(a)(i) and Section 7(v) read with Rule 55(6) punishable u/s 16(1)(a)(i) of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors (accused) of the Company are identical in nature as in para (20) of Criminal Writ Petition No. 245/1998.

23. As far as Criminal Writ Petition No. 49/1999 is concerned, undisputed facts are as follows : The Food Inspector on 30.1.1997 visited M/s. Jayantilal Dwarkadas situated at Akola. The sample was taken from the product "Kissan Mixed Fruit Jam", which was purchased from M/s. Brooke Bond Lipton India Limited through the clearing Agent M/s. Universal Clearing Agencies, Mishra Godown, Katol Road, Fetri, Nagpur. The batch number of product is 60412-A-2 and same was packaged in December 1996. The net weight of the product was 500 grams. The same was forwarded to the Public Analyst on 31.1.1997. The report dated 10.3.1997 of the Public Analyst shows that the sample contains sulphur dioxide more than the permissible limit, which is in contravention of Rule 55 of the Prevention of Food Adulteration Rules, 1955. The investigation was carried out by the Food Inspector. Necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 21.12.1998. The complaint was filed on 6.1.1999. On the said complaint, Chief Judicial Magistrate, Akola passed the impugned order of issuance of process on 6.1.1999 for contravention of provisions of Section 7(i) read with Section 2(ia)(a) punishable u/s 16(1)(a)(i), Section 7(i) read with Section 2(ia)(k) punishable u/s 16(1)(a)(i) and Section 7(v) read with Rule 55(6) punishable u/s 16(1)(a)(ii) read with Section 17 of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors

(accused) of the Company are identical in nature as in para (20) of Criminal Writ Petition No. 245/1998.

24. As far as Criminal Writ Petition No. 50/1999 is concerned, undisputed facts are as follows : The Food Inspector on 16.10.1996 visited M/s. M/s. New Soni Provision situated at Akola. The sample was taken from the product "Kissan Mixed Fruit Jam", which was purchased from M/s. Brooke Bond Lipton India Limited through the clearing Agent M/s. Universal Clearing Agencies, Mishra Godown, Katol Road, Fetri, Nagpur. The batch number of product is 62407-A-2 and same was packaged in July 1996. The net weight of the product was 500 grams. The same was forwarded to the Public Analyst on 17.10.1996. The report dated 18.11.1997 of the Public Analyst shows that the sample does not conform to the standards of Jam as per Prevention of Food Adulteration Rules, 1955 and contravenes Rule 54 of the said Rules. The investigation was carried out by the Food Inspector and necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 14.10.1998. The complaint was filed on 15.1.1999. On the said complaint, Chief Judicial Magistrate, Akola passed the impugned order of issuance of process on 15.1.1999 for contravention of provisions of Section 7(i) read with Section 2(ia)(a)(m) and (k) and Section 7(v) read with Rule 54 punishable u/s 16 and 17 of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors (accused) of the Company are identical in nature as in para (20) of Criminal Writ Petition No. 245/1998.

25. As far as Criminal Writ Petition No. 51/1999 is concerned, undisputed facts are as follows : The Food Inspector on 13.12.1996 visited M/s. Kailash Traders, Akot Stand, Akola. The sample was taken from the product "Kissan Mixed Fruit Jam", which was purchased from M/s. Brooke Bond Lipton India Limited through the clearing Agent M/s. Universal Clearing Agencies, Mishra Godown, Katol Road, Fetri, Nagpur. The batch number of product is 60711-A-1 and same was packaged in November 1996. The net weight of the product was 500 grams. The same was forwarded to the Public Analyst on 20.2.1997. The report dated 26.3.1997 of the Public Analyst shows that the sample contains sulphur dioxide more than 40.00 parts per million, which is in contravention of Rule 55 of the Prevention of Food Adulteration Rules, 1955. The investigation was carried out by the Food Inspector and necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 14.10.1998. The complaint was filed on 4.1.1999. On the said complaint, Chief Judicial Magistrate, Akola passed the impugned order of issuance of process on 4.1.1999 for contravention of provisions of Section 7(i) read with Section 2(ia)(a) and Section 7(i) read with Section 2(ia)(k) and Section 7(v) read with Rule 55(6) punishable under Sections 16 and 17 of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors (accused) of the Company are identical in nature as in para (20) of Criminal Writ

Petition No. 245/1998.

26. As far as Criminal Application No. 669/2000 is concerned, undisputed facts are as follows : The Food Inspector on 25.3.1998 visited M/s. Durga Provision Stores, Akola. The sample was taken from the product "Anik Ghee", which was purchased from M/s. Hindustan Lever Limited through the clearing Agent M/s. Universal Clearing Agencies, Mishra Godown, Katol Road, Fetri, Nagpur. The batch number of product is 15 A/14 and same was packaged in January 1998. The net weight of the product was 200 grams. The same was forwarded to the Public Analyst on 26.3.1998. The report dated 4.5.1998 of the Public Analyst shows that the sample contains Buyer - refractometer reading more than and Reichert value less than the standard and same does not conform to standard of ghee as per Prevention of Food Adulteration Rules, 1955. The investigation was carried out by the Food Inspector and necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 24.12.1999. The complaint was filed on 24.3.2000. On the said complaint, Chief Judicial Magistrate, Akola passed the impugned order of issuance of process on 24.3.2000 for contravention of provisions of Section 7(i) read with Section 2(ia)(a) punishable u/s 16(1)(a)(ii) and Section 7(i) read with Section 2(ia)(m) punishable under Sections 16(1)(a)(i) of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors (accused) of the Company are identical in nature as in para (20) of Criminal Writ Petition No. 245/1998.

27 .As far as Criminal Application No. 1282/1999 is concerned, undisputed facts are as follows : The Food Inspector on 19.7.1996 visited M/s. Mubarak Trading Company situated at Yavatmal. The sample was taken from the product "Kissan Mixed Fruit Jam", which was purchased from M/s. Brooke Bond Lipton India Limited through the clearing Agent M/s. Universal Clearing Agencies, Mishra Godown, Katol Road, Fetri, Nagpur. The batch number of product is 60201-A-1 and same was packaged in January 1996. The net weight of the product was 500 grams. The same was forwarded to the Public Analyst on 20.7.1996. The report dated 23.8.1996 of the Public Analyst shows that the sample contains sulphur dioxide more than the permissible limit, which is in contravention of Rule 55(6) of the Prevention of Food Adulteration Rules, 1955. The investigation was carried out by the Food Inspector and necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 12.5.1999. The complaint was filed on 9.6.1999. On the said complaint, Chief Judicial Magistrate, Yavatmal passed the impugned order of issuance of process on 9.6.1999 for contravention of provisions of Section 7(i) read with Section 2(ia)(a) punishable u/s 16(1)(a)(i), Section 7(v) read with Rules 54 and 55(6) punishable under punishable u/s 16(1)(a)(ii) and Section 17 of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors (accused) of the Company are identical in nature as in para

(20) of Criminal Writ Petition No. 245/1998.

28. As far as Criminal Application No. 1283/1999 is concerned, undisputed facts are as follows : The Food Inspector on 21.5.1996 visited M/s. Girish Agencies, Pusad. The sample was taken from the product "Kissan Mixed Fruit Jam", which was purchased from M/s. Brooke Bond Lipton India Limited through the clearing Agent M/s. Pacific Clearing and Forwarding Agent, Parlok, 22/2, near Railway Over bridge , Pimpri, Pune. The batch number of the product is 50612-A-1 and same was packaged in December 1995. The net weight of the product was 500 grams. The same was forwarded to the Public Analyst on 22.5.1996. The report dated 20.6.1996 of the Public Analyst shows that the sample contains sulphur disoxide more than the permissible limit and does not conform to the standards of Jam, which is in contravention of Rule 55 of the Prevention of Food Adulteration Rules, 1955. The investigation was carried out by the Food Inspector and necessary information was obtained from the Company in question. The consent for prosecution was granted by the competent Authority, i.e. Joint Commissioner of Foods and Drugs Administration, Amravati on 27.5.1999. The complaint was filed on 17.6.1999. On the said complaint, Judicial Magistrate, First Class, Pusad passed the impugned order of issuance of process on 17.6.1999 for contravention of provisions of Section 7(i) read with Section 2(ia)(a) punishable u/s 16(1)(a)(ii), Section 7(v) read with Rules 54 and 55(6) punishable under punishable u/s 16(1)(a)(ii) and Section 17 of the Act and validity of same is called in question in these proceedings. The allegations made against the Directors (accused) of the Company are identical in nature as in para (20) of Criminal Writ Petition No. 245/1998.

29. It will be appropriate at this stage to consider whether inherent powers of this Court u/s 482 of the Code of Criminal Procedure can be invoked by the petitioners in a situation like this and whether this Court is entitled to exercise the same for the purpose of quashing of complaint as well as order of issuance of process. It is no doubt true that ordinarily the High Court will not interfere with the criminal proceedings when the facts alleged in the complaint, if they are accepted to be correct at their face value, make out a prima facie case against the accused for the offences charged with. It is also well settled that this Court needs to exercise self restraint in interfering with the criminal proceedings at the initial stage. However, when the complaint if it is accepted to be correct on its face value, does not make out an offence the accused charged with, then in order to prevent abuse of process of Court, this Court is entitled to exercise power u/s 482 of Code of Criminal Procedure. Similarly when there are no averments in the complaint to connect the accused with the offence they are charged, the inherent powers of this Court can be exercised to prevent mis-carriage of justice. Adverting to the present proceedings u/s 482 of Code of Criminal Procedure, it needs to be seen as to whether there is any act committed by the Directors to draw an inference that they could also be vicariously liable or not for the commission of the offences and if on the close scrutiny of the allegations in the complaint, it is found that allegations and averments in the

complaint connect Directors with the offence, then the question of exercising power u/s 482 of Code of Criminal Procedure does not arise. However, if the allegations are such that they do not make out any offence against the Directors for which they are charged and still process is issued by the Magistrate taking cognizance of the offence, then allowing prosecution to continue would amount to abuse of process of Court and in the situation like this, this Court would be justified in exercising power u/s 482 of Code of Criminal Procedure.

30. It is also necessary to keep in mind that when the first information report is lodged u/s 154 of Code of Criminal Procedure by the complainant in the Police Station, the Police machinery is set in motion on the basis of the same and it is after completion of such investigation, charge-sheet is filed in the competent criminal Court by the prosecution. In the case like this, if the High Court is moved for quashing of the first information report at the threshold u/s 482 of Code of Criminal Procedure, even before prosecution is allowed to conduct investigation, the situation would be different than the case in hand and Court should be slow in exercising power u/s 482 in such circumstances. However, the case in hand stands on a different pedestal where investigation is carried out and conducted by the Investigating Officer, i.e. Food Inspector prior to filing of the complaint in the Court and, therefore, recitals/allegations/averments in the complaint, if accepted as true and correct, at least prima facie must connect the accused with the crime in question. If it fails to make out any offence against accused, then inherent powers of this Court can be exercised for quashing of such proceedings. Section 482 is enacted and inserted in the Code of Criminal Procedure for the purpose of preventing abuse of process of Court and if it is brought to the notice of this Court that forum of the criminal Court is being used for abuse of process of Court, in such circumstances, inherent power u/s 482, in my opinion, can undoubtedly be exercised to prevent the same.

31. The Apex Court in the case of Ashok Chaturvedi and Others Vs. Shitulh Chanchani and Another, had an occasion to consider this aspect and in para (5) observed thus :

"But the question that yet remains for consideration is whether allegations made in the petition of complaint together with statements made by the complainant and the witnesses before the Magistrate taken on their face value, do make the offence for which Magistrate has taken cognizance of? The learned Counsel for the respondent in this connection had urged that accused had a right to put this argument at the time of framing of charges and, therefore, this Court should not interfere with the order of Magistrate taking cognizance at this stage. This argument, however, does not appeal to us inasmuch as merely because an accused has a right to plead at the time of framing of charges that there is no sufficient material for such framing of charges as provided in Section 245 of Criminal Procedure Code, he is debarred from approaching the Court even at the earliest (sic earlier) point of time when the Magistrate takes cognizance of the offence and summons the accused to appear to contend that the very issuance of order of taking cognizance is invalid on the ground that no offence can be said to have been made out on the allegations made in the complaint petition. It has been held in a number of cases that power u/s 482 has to be exercised sparingly and in the interest of justice. But allowing the criminal proceedings to continue even where the allegations in the complaint petition do not make out any offence would be tantamount to an abuse of process of Court and, therefore, there cannot be any dispute that in such case, power u/s 482 of Code can be exercised."

32. Similar view is expressed by the Apex Court in G. Sagar Suri and Another Vs. State of U.P. and Others, . of the said judgment reads thus :

"It was submitted by Mr. Lalit, learned Counsel for the second respondent, that the appellants have already filed an application in the Court of Additional Judicial Magistrate for their discharge and that this Court should not interfere in the criminal proceedings, which are at the threshold. We do not think that on filing of any application for discharge, High Court cannot exercise its jurisdiction u/s 482 of the Code. In this connection, reference may be made to two decisions of this Court in Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, and Ashok Chaturvedi and Others Vs. Shitulh Chanchani and Another, wherein it has been specifically held that though the Magistrate trying a case has jurisdiction to discharge the accused at any stage of trial, if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court u/s 482 of the Code or Article 227 of the Constitution to have the proceedings quashed against them when no offence has been made out against them and still why must they undergo the agony of criminal trial."

33. In view of the ratio laid down by the Apex Court in the above referred cases, it is well settled that inherent power u/s 482 can be invoked by the accused in the appropriate case irrespective of other factors and this Court can exercise the same in a deserving case within parameters of law and, therefore, the contentions canvassed by the learned Additional Public Prosecutor in this regard are misconceived and same are rejected.

34. Now coming to the factual aspect of the matter at hand, the Company in question is prosecuted for contravening the provisions of the Prevention of Food Adulteration Act and Rules made thereunder. When the offence is committed by the Company, then the persons required to be prosecuted for such offence along with Company are provided in Section 17 of the Act. Section 17 can be classified basically into two parts - Where the offence under this Act has been committed by the Company -

-the person if any, who has been nominated under sub-section (2) of Section 17 to be in-charge of and responsible to the Company for the conduct of business of the Company shall be guilty of offence and shall be liable to be proceeded with and punished accordingly.

- where no person has been so 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 business of the Company, shall be deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly as contemplated u/s 17(1)(a)(i)(ii) of the Act.

In addition to persons referred hereinabove, the Directors of the Company can also be proceeded against and punished according to law. When an offence under this Act has been committed by the Company and it is proved that offence has been committed with the consent or connivance of or is attributable to or any neglect on the part of any Director, Manager, Secretary or other Officers of the Company, such Directors and other persons referred to shall be deemed to be guilty of that offence and shall also be liable to be proceeded against and punished accordingly as contemplated under sub-section (4) of Section 17 of the Act. In the instant case, sub-section (4) of Section 17 is relevant for the purpose of deciding the controversy in issue.

35. Under the scheme of Section 17, when the offence is committed by the Company, the person, who is nominated under sub-section (2) of Section 17 would be a person in-charge of and responsible to the Company for conduct of business of the Company and can be proceeded against and punished accordingly. However, in the absence of any nomination by the Company, every person, who at the time of commission of offence was in-charge and responsible to the Company for conduct of business of the Company can be proceeded against and punished accordingly for the offence committed by the Company. The person in-charge of and responsible for conduct of business of the Company can be anybody including Directors of the Company. However, it must be alleged in the complaint in this regard in order to show at the threshold as to who are persons in-charge of and responsible for conduct of business of the Company. In the absence of any allegations in the complaint, in a given set of circumstances, it will not be possible to connect the accused with the crime in question and if the allegations in this regard are missing in the complaint itself, then proving of those facts by adducing evidence does not arise. In such circumstances, it boils down to a situation where even if the allegations in the complaint are accepted as they are, without adding or subtracting anything from it, it would not either connect the accused with crime in question nor would make out even a prima facie case against the accused and in such situation, it will not be expedient to allow such prosecution to go on, which would amount to abuse of process of the Court apart from the fact that accused will have to undergo tremendous agony and pain for such proceedings.

36. Under the scheme of Section 17 of the Act, there are three categories of individuals, who can be proceeded against and punished, if found guilty for the offence committed by the Company. Those are person nominated by the Company, person in-charge of and responsible to conduct of business of the Company and third is in addition to these two, any Director of the Company, if it is proved that offence has been committed with the consent or connivance of or

is attributable to any neglect on the part of such Directors. Similarly, the person nominated may or may not be a Director of the Company. He can be anybody whomsoever the Company feels it appropriate to nominate. Similar is the case in respect of person in-charge of and responsible to conduct of business of the Company. However, by virtue of sub-section (4) of Section 17, Directors of the Company are also liable to be prosecuted in the contingencies referred to in sub-section (4) notwithstanding anything contained in sub-section 1(a)(i)(ii) of Section 17 of the Act. However, in order to bring home guilt, averments, allegations or statements to that extent in this regard must find place in the complaint, which is filed by the Food Inspector in the competent criminal Court after due investigation. The complaint must prima facie demonstrate nexus between Director and crime committed within the parameters of sub-section (4) of Section 17. What is expected is at least the allegations in the complaint that offence is committed under the provisions of the Act with the consent or connivance of such Director or same is attributable to any neglect on the part of such Director. In the absence of such allegations, it would be not only difficult but impossible to hold even prima facie that allegations in the complaint make out any case against such Director.

37. It is, however, true that complaint cannot be said to be encyclopedia of the facts alleged against the accused. However, we cannot lose sight of the fact that what is required to be proved by adducing evidence by prosecution is the allegations made in the complaint regarding material particulars of the prosecution case against the accused. If all these material particulars are not finding place in the complaint, then nothing would remain to be proved against such person and it will have to be held that for want of necessary allegations, averments or statements in the complaint, no offence is made out against the accused and allowing such prosecution to continue would undoubtedly amount to abuse of process of the Court.

38. Now coming to the factual allegations made in the complaint against the petitioners/accused in Criminal Writ Petition No. 245/1998, the same are only in para (20) of the complaint, which are reproduced below :

"That, the complainant further charges accused nos. 8 to 20 for committing offence by manufacturing, for sale, distributing for sale, stocking for sale and selling adulterated food article, namely, mixed fruit jam Kissan in contravention of provisions of Section 7(i) read with Section 2(ia)(a) punishable u/s 16(1)(a)(ii), Section 7(i) read with Section 2(ia)(k) punishable u/s 16(1)(a)(i), Section 7(v) read with Rule 55(6) punishable u/s 16(1)(a)(ii) read with Section 17 of the Prevention of Adulteration Act, 1954 and rules thereunder."

It is not in dispute that allegations or averments made by the complainant against the petitioners/Directors for commission of offence under the provisions of the Act are only in above referred para (20) of the complaint. Plain reading of the recitals of para (20) of the complaint would show that there are no specific or remote allegations made by the complainant, which would demonstrate any aspect of consent or connivance in regard to commission of offence by the Directors of the Company under the provisions of the Act nor same are even remotely attributable to any neglect on their part. The entire complaint including para (20) is totally silent in this regard and there is not even a whisper against the Directors in this respect. In the absence thereof, there is no nexus demonstrated in the complaint between these Directors and commission of offence under the provisions of the Act. The allegations in para (20) of the complaint, even if accepted in toto, in my opinion, would not prima facie make out any offence under the provisions of the Act muchless u/s 7 of the Act.

39. As observed hereinabove, in order to proceed against the Directors, particularly in view of sub-section (4) of Section 17, their prima facie involvement and connection with the crime must appear in the complaint in the form of allegations, statements or averments and then question of proving them would come at the stage of evidence. However, in the instant case, as observed hereinabove, in the complaints, there are no such allegations or averments and for want of such allegations or averments, it is not possible even to hold prima facie that nexus between the crime and Directors is made out even if recitals in the complaints are accepted. In a situation like this, it will not only be futile to allow prosecution to continue and proceed against the petitioners, but the same would be abuse of process of Court, which requires interference at the hands of this Court at this stage.

40. It is, however, true that even the documents which are accompanied with the complaint, if disclose offence against the accused, then the same will be enough in the given set of circumstances to demonstrate nexus between accused and crime in question and would even make out prima facie case for the offence charged. However, in the instant case, the only document which is relied upon by the prosecution to demonstrate complicity of the petitioners in the crime in question is letter dated 6.2.1998 issued by the Deputy Director, Department of Food whereby the Deputy Director had simply informed the prosecuting Authority that petitioners were Directors of the Company at the relevant time and nothing more. The fact of being Directors of the Company at the relevant time is not disputed by the petitioners. However, this document, in my opinion, is totally inadequate even to demonstrate prima facie that offence in question is committed with the consent or connivance of these Directors or same can be attributable to any neglect on their part. The documents accompanied with the complaint, therefore, do not help the prosecution in this regard.

41. The controversy in this regard is considered by the Apex Court in the case of Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi and Others, . In para 10 thereof, the Supreme Court has observed thus :

"It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the complaint or papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out, then the High Court will be justified in quashing the proceedings in exercise of its powers u/s 482 of the present Code."

Similarly in para 15 of the judgment, the Apex Court has observed thus :

"So far as the Manager is concerned, we are satisfied that from the very nature of his duties, it can be safely inferred that he would undoubtedly be vicariously liable for the offence, vicarious liability being an incident of an offence under the Act. So far as the Directors are concerned, there is not even a whisper nor a shred of evidence nor anything to show, apart from the presumption drawn by the complainant, that there is any act committed by the Directors from which a reasonable inference can be drawn that they could also be vicariously liable. In these circumstances, therefore, we find ourselves in complete agreement with the argument of the High Court that no case against the Directors (accused nos. 4 to 7) has been made out ex facie on the allegations made in the complaint and the proceedings against them were rightly quashed."

Similarly, in para (8) of the judgment in the case of State of Haryana Vs. Brij Lal Mittal and Others, , the Apex Court has observed thus :

"Nonetheless, we find that the impugned judgment of the High Court has got to be upheld for an altogether different reason. Admittedly, the three respondents were being prosecuted as directors of the manufacturers with the aid of Section 34(1) of the Act, which reads as under :

OFFENCES BY COMPANIES :

(1) Where an offence under this Act has been committed by a company, 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, as well as 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 or that he exercised all due diligence to prevent the commission of such offence.

It is thus seen that the vicarious liability of a person for being prosecuted for an offence committed under the Act by a company arises if at the material time he was in charge of and was also responsible to the company for the conduct of its business. Simply because a person is a director of the company, it does not necessarily mean that he fulfills both the above requirements so as to make him liable. Conversely, without being a director a person can be in-charge of and responsible to the company for the conduct of its business. From the complaint in question, we, however, find that except a bald statement that the respondents were directors of the manufacturers, there is no other allegation to indicate, even prima facie, that they were in-charge of the company and also responsible to the company for the conduct of its business."

In the above case, the Apex Court dismissed the SLP preferred by the State.

42. From the above referred judgments of the Apex Court, two legal aspects emerge :

I)criminal proceedings initiated against the accused can be quashed at the initial stage when the complaint as well as documents accompanying the same do not constitute any offence,

II) vicarious liability of a person for being prosecuted for the offence committed by the Company under the Act arises if at the material time the accused was in-charge of and responsible for conduct of business of the Company or offence is committed with the consent or connivance of such person (Director) or attributable to neglect on his part. Simply because the person is a Director of the Company, it does not necessarily mean that he fulfills al the above referred requirements so as to make him liable.

43. While applying the test provided and ratio laid down by the Apex Court to the present case, it is clear that in the complaints in question, except general statement that the petitioners were Directors of the Company, there is no allegation to indicate even prima facie that offence is committed with consent or connivance of them or same is attributable to neglect on their part. Since the complaints are totally silent on this issue, in my opinion, there is no legal impediment in quashing the impugned orders.

44. Faced with the similar situation in the case of R. Banerjee and others Vs. H.D. Dubey and others, , the Apex Court in para (7) of the judgment observed thus :

"It would then be necessary for the prosecuting agency to show from the averments made in the complaint that the case falls within sub-section (4) of Section 17 of the Act. If the prosecuting agency fails to show that the offence was committed with the consent or connivance of any particular Director, Manager, Secretary or other Officer of the Company or on account of the negligence of any one or more of them, the case set up against the appellants cannot be allowed to proceed."

Similarly, in para (9) of the said judgment, the Apex Court observed thus :

"It will thus be seen that there is no allegation in the complaint, which would bring the case within the mischief of Section 17(4) of the Act. There is no allegation in the complaint that the offence was committed with the consent/ connivance/negligence of the Directors, other than the nominated person, who were impleaded as co-accused. We are, therefore, satisfied that the allegations in the complaint do not make out a case under sub-section (4) of Section 17 of the Act. That being so, the inclusion of the co-accused other than the Company and the nominated person as the persons liable to be proceeded against and punished cannot be justified. As held by this Court in Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi and Others, , where the allegations set out in the complaint do not constitute any offence, no process can be issued against the co-accused other than the Company and the nominated person and the High Court would be justified in exercising its inherent jurisdiction u/s 482 of Code of Criminal Procedure, 1973 to quash the order passed by the Magistrate taking cognizance of the offence against such co-accused."

45. In the above case, the Supreme Court was dealing with identical situation under the provisions of Prevention of Food Adulteration Act. In the instant case, the allegations in the complaints, do not make out case under sub-section (4) of Section 17 of the Act and hence, orders of issuance of process passed by the Magistrates need to be quashed and set aside. 45)The Supreme Court in para 29 of the judgment in the case of Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, , has observed thus :

"No doubt the Magistrate can discharge the accused at any stage of the trial, if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court u/s 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial."

46. It is no doubt true that in the given set of circumstances, Magistrate may record pre-charge evidence and pass an appropriate order if he is satisfied at that juncture that the charge against the accused is groundless. However, when the contents in the complaints are accepted as they are and do not make out a prima facie case against the accused, in such situation, in my opinion, there is no propriety to allow such prosecution to proceed against the accused particularly in view of ratio laid down by the Apex Court in the above referred judgment. The only allegations made against the petitioners for the offences in question are in the specific paragraph of the complaints as observed hereinabove. What is stated is that the complainant further charges accused for committing offence by manufacturing, for sale, distributing for sale, stocking for sale and selling adulterated food article in contravention of aforesaid provisions of the Prevention of Adulteration Act, 1954 and rules thereunder. The complainant is totally silent in regard to allegations in respect of contingencies mentioned in sub-section (4) of Section 17 of the Act nor even makes out a prima facie case for the offences charged. In such situation, in my opinion, the contention canvassed by the learned Additional Public Prosecutor that Magistrate may be permitted to pass appropriate orders at the time of recording of pre-charge evidence cannot be accepted and in view of the facts and circumstances of the present case, the ratio laid down by the Apex Court in P. Rajarathinam Vs. State of Maharashtra and Others, is not of any help to the State since facts and circumstances in the case before Apex Court were entirely different.

47. Shri Manohar, learned Senior Counsel for the petitioners, though initially tried

to canvass the ground regarding nomination contemplated u/s 17(1)(a)(i), but subsequently made a statement that petitioners do not want to press this ground and same should be kept open. In the circumstances, it is open to prosecution to proceed against such person/persons according to law, if so nominated by the Company. Similarly, it will be open for the Court to proceed against the petitioners, if during the course of proceedings, appropriate fresh evidence is available against them.

48. As far as quashing of issuance of process against other Directors as contended by learned Senior Counsel Shri Manohar is concerned, these Directors were initially made parties as petitioners in Criminal Writ Petition Nos. 245/1998 and 246/1998. However, at the later point of time, petitioners sought permission to delete the names of these Directors from the array of the petitioners and this Court permitted such deletion vide order dated 6.7.2000. In the circumstances, it will not be possible to adjudicate upon this issue in their absence and grant relief claimed by the learned Senior Counsel for the petitioners. However, it is open for these Directors to move the appropriate forum for the necessary relief.

49. For the reasons stated hereinabove, the impugned order dated 18.8.1998 issued by the Chief Judicial Magistrate, Amravati in Criminal Complaint Case No. 76/1998, impugned order dated 18.8.1998 passed by Judicial Magistrate, First Class, Akot in Criminal Complaint Case No. 146/98, impugned order dated 6.1.1999 passed by Chief Judicial Magistrate, Akola in Criminal Complaint Case No. 10/1999, impugned order dated 15.1.1999 passed by Chief Judicial Magistrate, Akola in Criminal Complaint Case No. 31/1999, impugned order dated 4.1.1999 passed by Chief Judicial Magistrate, Akola in Criminal Complaint Case No. 5/1999, impugned order dated 24.3.2000 passed by Chief Judicial Magistrate, Akola in Criminal Complaint Case No. 393/2000, impugned order dated 9.6.1999 passed by Chief Judicial Magistrate, Yavatmal in Criminal Complaint Case No.204/1999 and impugned order dated 17.6.1999 passed by Judicial Magistrate, First Class, Pusad in Criminal Complaint Case No. 81/1999 are quashed and set aside only to the extent of above referred Directors (accused) of the Company, who are petitioners/applicants in the present proceedings and the Magistrates are directed to proceed against the other accused according to law.

50. The petitions/applications are allowed in the above terms.

