

# **Mansoor Ansari vs State Of U.P. And Another on 1 April, 2025**

**Author: Saurabh Srivastava**

**Bench: Saurabh Srivastava**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44556

Court No. - 74

Case :- APPLICATION U/S 482 No. - 37819 of 2024

Applicant :- Mansoor Ansari

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Sanjay Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Srivastava,J.

1. Heard learned counsel for applicant and learned AGA for the State-respondent.
2. The present application has been preferred challenging the chargesheet dated 22.12.2022 and cognizance/summoning order dated 06.04.2024 passed by learned Additional Chief Judicial Magistrate, Court No.19, Deoria as well as entire criminal proceedings of Criminal Case No.6038 of 2024 (State Vs. Mansoor Ansari), arising out of Case Crime No.651 of 2022, under Section 3/7 Essential Commodities Act, 1955, Police Station Kotwali Deoria, District Deoria, pending in the court of learned Additional Chief Judicial Magistrate, Court No.19, Deoria.
3. Brief facts of the present case are that applicant was a fair price shop dealer having valid license and after a long time, he made an application to the concerned authority seeking permission to

transfer his fair price shop alongwith godown from its previous place to another place and vide order dated 28.12.2022, he was permitted to transfer the material kept in the previous godown in new godown. On the date of transfer of the aforesaid shop, 46.62 quintal rice and 12.85 quintal wheat remained in the old godown. Meanwhile, a complaint was made by the then Gram Pradhan on dated 08.09.2022 to the concerned authority who inspected the new godown and showed less quantity to the quantity as mentioned above and submitted its report on dated 08.09.2022 before District Supply Inspector, Deoria whereupon, he suspended the fair price shop of applicant vide order dated 08.09.2022. On the basis of said suspension order, an FIR bearing Case Crime No.651 of 2022, under Section 3/7 of E.C. Act, has been lodged against applicant on the ground of embezzlement of essential commodities and said shop was attached with another fair price shop dealer, namely, Satish Chandra. After lodging of the FIR, investigation was conducted in shape of recording statements of several persons under Section 161 Cr.P.C. and preliminary inquiry report was submitted on dated 08.09.2022 whereupon a show cause notice was issued to applicant to which he submitted its reply on dated 16.09.2022 and vide order dated 01.10.2022, his fair price shop license was cancelled.

4. During course of investigation, applicant filed an appeal before Joint Commissioner (Food), Gorakhpur challenging order dated 01.10.2022 which was dismissed. The concerned Investigating Officer after getting approval from the District Magistrate, Deoria with regard to initiate prosecution case against applicant for the offence punishable under Section 3/7 E.C. Act, he submitted chargesheet on dated 22.12.2022 whereupon, learned court concerned taken cognizance vide impugned order dated 06.04.2024

5. Learned counsel for applicant argued by bare perusal of the case diary, it is evident that the concerned Investigating Officer did not follow the procedure of investigation and nothing has been done by him as per law. It has also been argued by learned counsel for applicant that without conducting fair investigation, the concerned Investigating Officer submitted chargesheet against applicant but without considering the said facts and without applying its judicial mind, learned court concerned taken cognizance over the said chargesheet which is abuse of process of law and as such, same may be quashed. In support of his submissions, learned counsel for applicant produced before the Court several applications which were made by applicant himself to the concerned authorities and several orders passed by them, the said applications and orders have already been appended along with this application.

6. Per contra, learned AGA vehemently opposed the prayer as made in the application by way of submitting that the contentions, which are sought to be raised on behalf of applicant, would relate to disputed questions of fact, and would involve appreciation of evidence. It is submitted that at the time of taking cognizance, only a prima facie case is to be seen and the court concerned is not expected to hold a mini trial.

7. After hearing the rival submissions extended by learned counsels for the parties and perusing the records, this Court is of the opinion that at the stage of taking cognizance/summoning, the Magistrate is only required to record a prima facie opinion, based on the material on record, and is not expected to hold a mini trial or to examine the defence of the accused. In judgment rendered by

Hon'ble Apex Court in case of S.W. Palanitkar and Others v. State of Bihar and Another; (2002) 1 SCC 241, it was held that the test which was required to be applied was whether there is "sufficient ground for proceeding" and not whether there is "sufficient ground for conviction". In the case of Nupur Talwar v. Central Bureau of Investigation and Another; (2012) 11 SCC 465, it was reiterated that the limited purpose of consideration of material at the stage of issuing process being tentative as distinguished from the actual evidence produced during trial, the test to be applied at the stage was whether the material placed before the Magistrate was "sufficient for proceeding against the accused" and not "sufficient to prove and establish the guilt". At the stage of taking cognizance, a court's primary focus is to determine if a prima facie case exists, meaning whether there is sufficient evidence to suggest that an offense has been committed, and not to delve into the merits of the case or the evidence.

8. The aforementioned legal position has also been considered in a recent decision of this Court in the judgment dated 6.5.2024 passed in Matters under Article 227 no. 3254 of 2024 (Kailash and another vs. State of U.P. and another).

9. From the perusal of the material available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against applicant. All the submission made at the bar, relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under Section 482 Cr.P.C.

10. On aforesaid reason, the present application is devoid of merit and, hence, the same is dismissed.

Order Date :- 1.4.2025 Vivek Kr.