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CRIMINAL APPEAL NOS. 963-965 OF 1999.
(Appeals by Special Leave granted by this Court by 16th Order dated the 17th September, 1999 in Petition for Special Leave to Appeal (Criminal) Nos. 4021-4023 of 1998 against the Judgment and Order dated the 26th March, 1998 of the High Court of Kerala at Ernakulam in Criminal Misc. Case Nos. 766, 1437 of 1995 and 396 of 1997 arising out of the proceedings in Sessions Trial No. 325 of 1994 on the file of the Chief Judicial Magistrate, Palakkad).

CRIMINAL APPEAL NO. 963 OF 1999.

1. State of Kerala
represented by the Public
Prosecutor, High Court of Kerala,
Ernakulam, Kerala State.

2. Senior Inspector
Legal Metrology
Palghat, Kerala State.

-Appellants

Versus

1. M/s. Flora, Court Road,
Sultanpet, Palakkad, Kerala State,
represented by its Managing
Partner.

2. M.H. Kallaiur Rahman,
Managing Partner,
M/s. Flora, Court Road,
Sultanpet, Palakkad,
Kerala State.

3. M.H. Syed Aluthalir, Partner,
M/s. Flora, Court Road,
Sultanpet, Palakkad,
Kerala State.

-Respondents

Certified to be true copy
Assistant Registrar (Judl.)
Supreme Court of India

CRIMINAL APPEAL NO. 964 OF 1999.

1. State of Kerala, represented
by the Public Prosecutor,
High Court of Kerala,
Ernakulam, Kerala State.

2. Senior Inspector,
Legal Metrology
Palghat, Kerala State.

-Appellant

Versus

Partner, M/s. Flora, Court Road,
Sultanpet, Palakkad,
Kerala State.

3. M. H. Abdul Rehman,
Partner,
M/s. Flora, Court Road,
Sultanpet, Palakkad,
Kerala State.

4. S. M. Rycudeon, Partner,
M/s. Flora, Court Road,
Sultanpet, Palakkad,
Kerala State.

-Respondent-n

ORIGINAL APPEAL NO. 965 OF 1999.

1. State of Kerala,
represented by the Public Prosecutor,
High Court of Kerala, Ernakulam,
Kerala State.

2. N. Vijayan, Inspector,
Legal Metrology,
Karthikappally, Alleppey District,
Kerala State.

-Appellants

Versus

H. Ramaswami, Managing Partner
of M/s. Rajeswari Mens. Wear Division
Handmade Garments Shop,
Maripad, Alleppey District,
Kerala State.

-Respondent

17TH SEPTEMBER, 1999.

CAUSE:

HON'BLE MR. JUSTICE O.T. NAHAVATI
HON'BLE MR. JUSTICE S.N. PHUKAR

For the Appellants: Mr. G. Prakash and Ms. V. M. Rahana, Advocates.

For the Respondents: Mr. T. L. Vishwanatha Iyer, Senior Advocate.
(Mr. T. O. Narayanan, Nair, Advocate with him).

The Appeals above-mentioned being called on for hearing
before this Court on the 17th day of September, 1999, UPON
perusing the record and hearing Counsel for the parties herein,
THIS COURT DUTU Inter-alia PASS the following ORDER:

Orders of Weights and Measures (Packaged Commodities) Rules,
hereinafter referred to as the Rules. In the show-cause notice dated 2-1-1999

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1992
Mukherjee & Co

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 963-965 OF 1999
arising out of SLP(Cr.) 4021-4023/98

Certified to be a true and correct copy
Assistant Registrar (Judicial)
Supreme Court of India

State of Kerala & Ors.

Appellants

Vs.

M/s Flora & Ors.

Respondents

ORDER

Leave granted. Heard learned counsel for the parties.

Against the respondents in these three appeals, criminal cases were filed alleging that they were selling ready made shirts in violation of Rule 8 (1) and 23 (1) of the Standards of Weights and Measures (Packaged Commodities) Rules inasmuch as the packets in which shirts were being kept did not bear declaration of sale price. While the criminal cases were pending in the trial Courts, the respondents approached the High Court for quashing the prosecution against them. The High court was of the view that "it is not fair and proper to prosecute the retail dealer when he cannot add to, or make any alteration in the declaration made on the packets by the wholesaler or manufacturer, who is the packer, who is not prosecuted along with him, as that too will be an offence under Rule 39 of the Rules". Taking this view it

quashed the proceedings against the three respondents. The State has, therefore, filed this appeal.

In our opinion the High Court was wrong in quashing the prosecution against the respondents. It failed to appreciate that by putting up for sale the shirts without declaring their sale price, the respondents committed a breach of Rule 6 and rendered themselves liable to prosecution irrespective of the criminal liability of the manufacturer. The respondents could have declared the price on the packets by affixing a price tag or in any other manner which would have satisfied the requirement of the rule. As the prosecution against the respondents has been quashed ~~on~~ on the ground not sustainable, the judgment and order passed by the High Court deserves to be set aside. We, therefore, allow these appeals, quash the judgment and order passed by the High Court with the result that the prosecution against the respondents will now proceed against them and it shall have to be disposed of in accordance with law.

sd/-
(G. T. Niharaji)
sd/-
(S. N. Phulkar)

New Delhi,
September 17, 1999

CRIMINAL APPEAL Nos. 963-965 OF 1999

(Appeals by Special Leave granted by this court by its Order dated the 17th September, 1999 in Petition for Special Leave to Appeal (Criminal) No. 4021-4023 of 1998 against the Judgment and Order dated the 26th March, 1998 of the High Court of Kerala at Ernakulam in Criminal, Misc case Nos. 766, 1437 of 1995 and 396 of 1997 arising out of the proceedings in Sessions Trial No. 325 of 1994 on the file of the Chief Judicial Magistrate, Palakkad.

CRIMINAL APPEAL Nos. 963 OF 1999

1. State of Kerala

Represented by the Public

Prosecutor, High Court of Kerala,

Ernakulam, Kerala State.

2. Senior Inspector

Legal Metrology

Palghat, Kerala State.

- Appellants

Versus

1. M/s. Flora, Court Road,

Sultanpet, Palakkad, Kerala State,

Represented by its Managing

Partner.

2. M. H. Kallaiur Rahman,

Managing Partner,

M/s. Flora, Court Road,

Sultanpet, Palakkad,

Kerala State.

3. M.H. Syed Abuthalir, Partner,
M/s. Flora, Court Road,
Sultanpet, Paalakkad,
Kerala State.

- Respondents

CRIMINAL APPEAL Nos. 964 OF 1999

1. State of Kerala, represented
by the Public Prosecutor,
High Court of Kerala,
Ernakulam, Kerala State.

2. Senior Inspector,
Legal Metrology
Palghat, Kerala State

- Appellants

Versus

2. M. N. Kallaiur Rahmen,
Partner,
M/s. Flora, Court Road,
Sultanpet, Palakked,
Kerala State.
3. M.H. Abdul Rehman
Partner,
M/s. Flora, Court Road,
Sultanpet, Palakked,
Kerala State.
4. S.M. Ryooodooon, Partner,

M/s. Flora, Court Road,

Sultanpet, Palakkad,

Kerala State.

-Respondents

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1. State of Kerala,
represented by the Public Prosecutor,
High Court of Kerala, Ernakulam,
Kerala State.

2. N. Vijayan, Inspector,
Legal Metrology,
Karthikappally, Alleppey District.
Kerala State.

-Appellants

Versus

R. Ramaswami, Managing Partner
of M/s. Rajeswarl Mens Wear Division
Readymade Garments Shop,
Karipad, Alleppey District,
Kerala State.

-Respondents

17TH SEPTEMBER, 1999.

CORAM :

HON'BLE MR. JUSTICE G.T. NANAVATI

HON'BLE MR. JUSTICE S.N. PHUKAN

For Appellants Mr. G. Prakash and Mr. V.H. Rahena, Advocates

For the Respondents Mr. T.L. Vishwanath Iyer, Senior Advocate

(Mr. T.O. Narayanan, Nair, Advocate with him).

The Appeal above-mentioned being called on for hearing before this Court on the 17th day of September, 1999, UPON perusing the record and hearing counsel for the parties herein THIS COURT DOTH inter-alia PASS page the following ORDER:

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NOS.963-965 OF 1999

arising out of SLP (Cri.) 4021-4023/98

State of Kerala & Ors.

Appellants

Vs.

M/s Flora & Ors.

Respondents

O_R_D_E_R

Leave granted. Heard learned counsel for the parties.

Against the respondents in these appeals, criminal cases were filed alleging that they were selling ready made shirts in violation of Rules 6 (1) and 23 (1) of the Standards of Weights and Measures (Packaged Commodities) Rules inasmuch as the packets in which shirts were being kept did not bear declaration of sale price. While the criminal cases were pending in the trial Courts, the respondents approached the High Court for quashing the prosecution against them. The high court was of the view that it is not fair and proper to prosecute the retail dealer when he cannot add to or make any alteration in the declaration made on the packets by the wholesaler or manufacturer, who is the packer, who is not prosecuted along with him as that too will be an offence under Rule 39 of the Rules. Taking this view it quashed

the proceedings against the three respondents. The State has, therefore, filed this appeal.

In our opinion the High Court was wrong in quashing the prosecution against the respondents. It failed to appreciate that by putting up for sale the shirts without declaring their sale price, the respondents committed a breach of Rule 6 and rendered themselves liable to prosecution irrespective of the criminal liability of the manufacturer. The respondents could have declared the price on the packets by affixing a price tag or in any other manner which would have satisfied the requirement of the rule. As the prosecution against the respondents has been quashed on the ground not sustainable, the judgment and order passed by the High Court deserves to be set aside. We, therefore, allow these appeals, quash the judgment and order passed by the High Court with the result that the prosecution against the respondents will now proceed against them and it shall have to be disposed of in accordance with law.

Sd/-

G. T. Nanavati

Sd/-

(S. N. Phukan)

New Delhi

September 17, 1999