



IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 26TH DAY OF FEBRUARY 2021

BEFORE

THE HON'BLE MR. JUSTICE P. KRISHNA BHAT

CRIMINAL PETITION NO.101102 OF 2020

C/W

CRIMINAL PETITION NO.101397 OF 2020

CRIMINAL PETITION NO.101468 OF 2020

CRIMINAL PETITION NO.101477 OF 2020

IN CRIMINAL PETITION NO.101102 OF 2020

BETWEEN

1. M/s. P J MARGO PVT. LTD.,
#334, 4TH MAIN ROAD,
SADASHIVA NAGAR,
BENGALURU-560 080,
REPRESENTED BY ITS
MANAGING DIRECTOR
SRI. PRADEEP JAIPURIA.
2. MANAGING DIRECTOR
M/s. P J MARGO PVT. LTD.,
#334, 4TH MAIN ROAD,
SADASHIVA NAGAR,
BENGALURU-560080.
REPT. BY SRI. PRADEEP JAIPURIA.

...PETITIONERS

(BY SRI. RAGHAVENDRA C. R., ADV.,

SRI. V. RAGHURAM ADV., AND
SRI. SHASHANK S. HEGDE, ADV.,)

AND

THE STATE OF KARNATAKA
LEGAL METROLOGY OFFICER,
GOKAK SUB-DIVISION,
GOKAK-591307.
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENCH AT DHARWAD,
PIN-580 008.

...RESPONDENT

(BY SRI. PRAVEEN K UPPAR, HCGP)

THIS CRIMINAL PETITION IS FILED U/S. 482 OF CR.P.C.,
PRAYING TO QUASH THE IMPUGNED ORDER DATED 22.06.2020
PASSED IN C.C.NO.1040/2020 (ANNEXURE-B) BY THE PRINCIPAL
CIVIL JUDGE AND JMFC, GOKAK TAKING COGNIZANCE AGAINST
THE PETITIONERS FOR OFFENCES PUNISHABLE UNDER SECTIONS
31 AND 36 OF THE LEGAL METROLOGY ACT, 2009 AND QUASH THE
IMPUGNED COMPLAINT DATED 17.06.2020 (ANNEXURE-A) IN
C.C.NO.1040/2020 FILED BY THE RESPONDENT AGAINST THE
PETITIONERS PENDING ON THE FILE OF THE PRINCIPAL CIVIL
JUDGE AND JMFC, GOKAK.

IN CRIMINAL PETITION NO.101397 OF 2020
BETWEEN

1. NESTLE INDIA LIMITED,

NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON 122 002, HARYANA,
BY ITS AUTHORIZED SIGNATORY
T. S. VENKATESHWARAN, AGE. 51,
S/O. LATE T. V. SUBRAMANIAM,
ADDRESS. AS SHOWN IN
COMPANY ADDRESS.

2. RAMA BIJAPURKAR,
AGE. 63, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.
3. RAKESH MOHAN
AGE. 72, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.
4. SURESH NARAYANAN
AGE. 60,
MANAGING DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.
5. RAJYA VARDHAN KANORIA
AGE. 65, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,

JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.

6. SHOBINDER DUGGAL
AGE. 62, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.
7. SWATI AJAY PIRAMAL
AGE. 64, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.
8. MARTINTHEO HERMAN ROEMKENS,
AGE. 51, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE,
JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122002, HARYANA.
9. ROOPA KUDVA,
AGE. 57, DIRECTOR AND MANUFACTURER,
NESTLE INDIA LIMITED,
NESTLE HOUSE, JACARANDA MARG,
M BLOCK, DLF CITY, PHASE-II,
GURGAON-122 002, HARYANA.

...PETITIONERS

(BY SRI. K. KASTURI, SENIOR ADV., FOR SRI. HARSH DESAI,
ADV.,)

AND
STATE BY
STATE PUBLIC PROSECUTOR,
DHARWAD,
BY THE INSPECTOR OF LEGAL METROLOGY
GOKAK SUB-DIVISION, GOKAK,
BELAGAVI DISTRICT, PIN-591307

...RESPONDENT

(BY SRI. PRAVEEN K UPPAR, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
SEEKING TO QUASH THE ORDER DATED 10.06.2020 PASSED BY
THE COURT OF THE PRINCIPAL JMFC AT GOKAK AND
CONSEQUENTLY QUASH THE ENTIRE PROCEEDINGS IN C.C.
NO.1020 OF 2020 (P.C.NO.1201716 OF 2019-20) REGISTERED
AGAINST THE PRESENT PETITIONERS FOR THE OFFENCES
PUNISHABLE UNDER SECTIONS 31 AND 36 OF THE LEGAL
METROLOGY ACT, 2009.

IN CRIMINAL PETITION NO.101468 OF 2020

BETWEEN

1. REEKITT BENCKISER (INDIA) PVT.LTD.,
REPRESENTED BY
AUTHORISED LEGAL DIRECTOR,
MUKESH KUMAR JHA,
AUTHORISED GPA HOLDER
MR. MANOJ SINGH BISHT,
AGE. 32 YEARS,
OCCUPATION. COMPANY SECRETARY
ADDRESS. AS PER COMPANY ADDRESS,

HAVING ITS REGISTERED OFFICE AT
PLOT NO.48, SECTOR 34,
GURGOAN-122 001, HARYANA.

HAVING A FACTORY AT-
B-96 ELDECO SIDCUL INDUSTRIAL PARK,
SITARGANJ, UTTARAKHAND-262405

2. MR. GAURAV JAIN,
AGED ABOUT 32 YEARS,
SON OF T.S. BISHT,
MANAGING DIRECTOR
RECKITT BENCKISER (INDIA) PVT. LTD.,
HAVING ITS REGISTERED OFFICE AT
PLOT NO.48, SECTOR 34,
GURGOAN-122 001, HARYANA.

HAVING A FACTORY AT-
B-96 ELDECO SIDCUL INDUSTRIAL PARK,
SITARGANJ, UTTARAKHAND 262405

...PETITIONERS

(BY SRI. R. JAWAHARLAL AND SHRUTI RAO, ADVOCATES)

AND

THE STATE OF KARNATAKA
REPRESENTED BY THE INSPECTOR OF
LEGAL METROLOGY,
GOKAK SUB-DIVISION,
GOKAK P & T BANK BUILDING,
APMC YARD, GOKAK,
BELGAUM DISTRICT,
KARNATAKA-591307
NOW REPRESENTED BY ITS

STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD-580011

...RESPONDENT

(BY SRI. PRAVEEN K UPPAR, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C., PRAYING TO CALL FOR THE RECORDS OF CRIMINAL COMPLAINT BEING CASE NO.1016/2020 FILED BY THE RESPONDENT AND PENDING BEFORE THE COURT OF PRINCIPAL CIVIL JUDGE AND JMFC GOKAK, AND QUASH THE CRIMINAL COMPLAINT BEING CASE NO.1016/2020 MENTIONED AT ANNEXURE-A FILED BY THE RESPONDENT AND PENDING BEFORE THE COURT OF PRINCIPAL CIVIL JUDGE AND JMFC GOKAK FOR OFFENCE PUNISHABLE UNDER SECTION 31 AND 36 OF LEGAL METROLOGY ACT, INsofar AS PETITIONERS IS CONCERNED.

IN CRIMINAL PETITION NO.101477 OF 2020

BETWEEN

1. M/s. MAHINDRA AND MAHINDRA LIMITED
WITH ITS REGISTERED OFFICE AT
GATEWAY BUILDING,
APOLLO BUNDER
MUMBAI-400 001,
MAHARASHTRA,
REPRESENTED BY ITS
GENERAL COUNSEL,
THROUGH ITS GPA,
MR. NAVEEN RAJU

S/O. MR. L. RAJU
AGED ABOUT : 46 YEARS.

2. SRI. PAWAN KUMAR GOENKA
AGE. 66 YEARS,
MANAGING DIRECTOR
M/s. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI 400 001, MAHARASHTRA.
3. SRI VIKRAM SINGH MEHTA
AGE 68 YEARS, DIRECTOR
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
4. SRI. THOTHALA NARAYANASWAMY MANOHARAN
AGE 64 YEARS, DIRECTOR
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
5. SRI. HAIGREVE KHAITAN
AGE 50 YEARS, DIRECTOR
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
6. SRI. NADIR BURJOR GODREJ
AGE 70 YEARS, DIRECTOR,
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
7. MURUGAPPAN MUTHIAH S/O MURUGAPPAN
AGE 37 YEARS, DIRECTOR,
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.

8. AJAY KUMAR SHARMA
AGED ABOUT 58 YEARS,
DIRECTOR,
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
9. VISHAKA NURUBHAI DESAI
AGE 71 YEARS, DIRECTOR
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
10. SRI. ANAND GOPAL MAHINDRA
AGE. 66 YEARS, DIRECTOR
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
11. SRI. RUDRARAJU NARAYANA RAJU
AGED ABOUT 62 YEARS,
DIRECTOR,
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.
12. SRI. SHIKHA SANJAYA SHARMA
AGE 62 YEARS, DIRECTOR
M/S. MAHINDRA AND MAHINDRA LIMITED
GATEWAY BUILDING, APOLLO BUNDER,
MUMBAI - 400 001, MAHARASHTRA.

...PETITIONERS

(BY SRI. RAVI B NAIK, SENIOR COUNSEL FOR
SRI. TRIMURTHI B S ADV., AND
SRI. SHIVARAJ C BELLAKKI, ADV.,)

AND

STATE OF KARNATAKA
LEGAL METROLOGY OFFICER,
GOKAK SUB-DIVISION,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD.

...RESPONDENT

(BY SRI. PRAVEEN K UPPAR, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
PRAYING TO QUASH THE ORDER DATED 10th JUNE 2020 PASSED IN
C.C. NO.1018/2020 PENDING ON THE FILE OF THE PRINCIPAL
CIVIL JUDGE AND THE JUDICIAL MAGISTRATE OF FIRST CLASS,
GOKAK, BELAGAVI AS FAR AS IT RELATES TO TAKING
COGNIZANCE AND REGISTRATION OF A CASE AGAINST THE
PETITIONERS FOR OFFENCES PUNISHABLE UNDER SECTIONS 31
AND 36 OF THE LEGAL METROLOGY ACT, 2009 AND ORDERING
PROCESS AGAINST THE ACCUSED NO.1 TO 2 PRODUCED AS
ANNEXURE-A AND FURTHER TO QUASH THE ENTIRE PROCEEDINGS
THAT ARE BEING RECORDED IN C.C.NO.1018/2020 PENDING ON
THE FILE OF THE PRINCIPAL CIVIL JUDGE AND THE JUDICIAL
MAGISTRATE OF FIRST CLASS, GOKAK BELAGAVI (ANNEXURE-A)
IN THE ENDS OF JUSTICE.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR
ORDERS ON 24.02.2021 COMING ON FOR PRONOUNCEMENT OF
ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

COMMON ORDER

In all these petitions common questions of law are involved and therefore with the consent of the learned counsel on both sides, the petitions are taken up for hearing together and disposed of by this common order.

2. Petitioners in Criminal Petition No.101102/2020 are calling in question the order dated 22.06.2020 passed in C.C.No.1040/2020 on the file of the Principal Civil Judge and JMFC, Gokak taking cognizance for the offences punishable under Sections 31 and 36 of the Legal Metrology Act, 2009 ("the Act" for short) against the petitioners

3. Petitioners in Criminal Petition No.101397/2020 are calling in question the order dated 10.06.2020 passed in C.C.No.1020/2020 on the file of the Principal Civil Judge and JMFC, Gokak taking cognizance against them for the above mentioned offences.

4. Petitioners in Criminal Petition No.101468/2020 are calling in question the order dated 12.06.2020 passed in C.C.No.1016/2020 on the file of the Principal Civil Judge and JMFC, Gokak taking cognizance against them for the above mentioned offences.

5. Petitioners in Criminal Petition No.101477/2020 are calling in question the order dated 10.06.2020 passed in C.C.No.1018/2020 on the file of the Principal Civil Judge and JMFC, Gokak taking cognizance against them for the above mentioned offences.

6. Brief facts are to the effect that the Inspector, Legal Metrology, Gokak Sub-Division, Gokak presented separate private complaints against the petitioners in these petitions before the Principal Civil Judge and JMFC, Gokak alleging violation of the provisions of the Act by them and requesting the Court to take cognizance for the offences mentioned in the private complaints.

7. Briefly put, the thrust of the complaint presented by the Inspector, Legal Metrology, Gokak Sub-

Division is that these petitioners through their companies produce/manufacture various consumer/engineering products and they have put out advertisements in various websites and on browsing the same in the internet, the Inspector, Legal Metrology who will be henceforth referred to as complainant discovered that they were in violation of various provisions of the Act and Legal Metrology (Packaged Commodities) Rules, 2011. When the complaints were presented before the learned JMFC, he perused the same and since the complainant is a public servant, dispensing with the sworn statement, being of the opinion that the contents of the private complaints made out the ingredients of the offences under Sections 31 and 36 of the Act, took cognizance for the said offences and issued summons to the petitioners.

8. I have heard the learned Senior Counsel Sri. K. Kasturi, learned Senior Counsel Sri. Ravi B Naik, learned counsel Sri. Jawaharlal and learned counsel Sri.

Raghavendra C.R., for the various petitioners herein. I have also heard learned HCGP for the respondent.

9. The contentions of the learned counsel for the various petitioners is that the orders impugned herein taking cognizance for the offences punishable under Sections 31 and 36 of the Act have been passed in total violation of the procedure established under law and more particularly under Section 202 of Cr.P.C.

10. Elaborating the said submission, it is contended that the learned Court below was having territorial jurisdiction for the Revenue Taluk of Gokak and all the petitioners herein are located/residing in places outside the said jurisdiction viz., Bangalore, Mumbai and various other states and therefore by following the procedure established under Section 202 of Cr.P.C. the issuance of process ought to have been postponed/deferred till after holding inquiry as provided therein. For the said purpose, the learned counsel placed reliance on the decision of the

Hon'ble Supreme Court in ***Udai Shankar Awasthi v. State of U.P. and others*** reported in ***(2013) 2 SCC 435***.

11. They also submitted that the companies which are the petitioners herein and the rest of the petitioners who are directors of the same are not liable to be prosecuted for the offences alleged as they have nominated a director under Section 49(2) of the Act, substantially to act as a compliance officer. They further submitted that once such a director is nominated under Section 49(2) of the Act, the company and rest of the directors of the company cannot be prosecuted unless the conditions enumerated under sub-section 4 of Section 49 were satisfied and there is nothing to indicate from the impugned order that learned JMFC had come to such a conclusion before issuing summons under the impugned orders.

12. They also contended that the complainant had presented private complaint based not on his examination of the products or packages, but based on his browsing of

the website and these websites are not the authorized E-commerce platform of the petitioners and in any case, these petitioners are not E-commerce platforms. They also submitted that these petitioners are not E-commerce entities and therefore, the complaints were misconceived and as such, no cognizance on such a complaint for any of the offences under the Act could have been taken by the learned JMFC.

13. I have heard the learned HCGP in detail on the petitions.

14. There cannot be any dispute about the fact that all the petitioners in these petitions are residing outside the jurisdiction of learned JMFC who has passed the impugned orders. The impugned orders, in these cases, are couched more or less in the same manner and as an example, the impugned order in C.C.No.1018/2020 in Criminal Petition No. 101477/2020 is extracted below:

"The complainant is present and filed a private complaint U/Sec.200 of Cr.P.C. against the accused

No.1 to 12 for the offences P/U/Sec.31 and 36 of Legal Metrology Act.

ORDER

Complainant being Inspector of Legal Metrology Office, Gokak Sub-Division, Gokak is present and filed this complaint U/Sec.200 of Cr.P.C. against the accused No.1 to 12 for the offences Punishable Under Section 31 and 36 of Legal Metrology Act. The complainant being the public servant filed this complaint in his official capacity. Therefore, the sworn statement of the complainant is dispensed with.

Perused the complaint and available materials on record the complainant has made out a prima facie case. Therefore cognizance is taken for the offences Punishable Under Section 31 and 36 of Legal Metrology Act against the accused No.1 to 12.

Office is to register the criminal case against the accused No.1 to 12."

15. Learned JMFC has not applied his judicial mind to the facts of the case, the provisions of law applicable and also the provisions of the Code of Criminal Procedure, 1973. If he had only seen the private complaints, he would have noticed that all the petitioners are residing

outside his jurisdiction and therefore, Section 202 of Cr.P.C., became applicable to the present situation. It reads as under:

"202. Postponement of issue of process.-

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, [and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction] postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made –

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Sessions; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub- section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub- section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer- in- charge of a police station except the power to arrest without warrant."

16. A cursory glance of the complaints would have revealed to the learned judge that the companies and petitioners arraigned as accused in the complaints are located/residing outside his territorial jurisdiction. That would have alerted him to seek guidance from Section 202 of Cr.P.C. which loudly and clearly says that in such an eventuality, the Court should adapt what could be conveniently called as the "halt and proceed" approach before issuing process. This is a guarantee assured to all

the potential accused in private complaints residing outside the territorial jurisdiction of the summoning Court that before they are called upon to make an arduous trip to the Court to answer the charges, Court has doubly assured itself that they are, in light of materials available before it, liable to answer such charges. The inquiry required to be held by Court at this stage or the investigation to be made by police officer in the alternative, contemplated under Section 202 of Cr.P.C. is towards fulfillment of such guarantee made available to an accused hailing from outside the jurisdiction. Courts should not treat this onerous obligation like a mere ritual or an empty formality. This "halt and proceed" is mandatory and any violation of the same will fetch a "red signal" from Section 202 of Cr.P.C.

17. The Hon'ble Supreme Court in a similar case in ***Udai Shankar Awasthi*** (referred supra), at para No.40 has observed as follows:

"40. The Magistrate had issued summons without meeting the mandatory requirement of Section 202 Code of Criminal Procedure, though the appellants were outside his territorial jurisdiction. The provisions of Section 202 Code of Criminal Procedure were amended vide Amendment Act 2005, making it mandatory to postpone the issue of process where the accused resides in an area beyond the territorial jurisdiction of the Magistrate concerned. The same was found necessary in order to protect innocent persons from being harassed by unscrupulous persons and making it obligatory upon the Magistrate to enquire into the case himself, or to direct investigation to be made by a police officer, or by such other person as he thinks fit for the purpose of finding out whether or not, there was sufficient ground for proceeding against the accused before issuing summons in such cases. [See also Shivjee Singh v. Nagendra Tiwary (AIR 2010 SC 2261; and National Bank of Oman v. Barakara Abdul Aziz (2013) 2 SCC 488)]".

18. In view of the above decision of the Hon'ble Supreme Court and in view of the mandatory provisions of Section 202 of Cr.P.C., the orders impugned herein taking cognizance for the offences punishable under Sections 31

and 36 of the Act, passed by the learned JMFC are liable to be set aside.

19. Learned JMFC ought to have borne in mind that taking cognizance for the offences against the accused persons named in the private complaints is a solemn act which will have adverse consequences on the life and liberty of the accused. Therefore, he should have applied his judicial mind to the allegations made, provisions of the Act which are alleged to have been violated and the ingredients of the offences etc., carefully before deciding to take cognizance for the offences. Now in this particular instance, additional care ought to have been bestowed by the learned JMFC in view of the fact that some of the petitioners are companies incorporated under the Indian Companies Act, 1956, and most of the petitioners are directors of the same. In regard to the vicarious liability of the director of companies for the offences alleged against them are concerned, law is very clear [Vide **SMS Pharmaceuticals Limited vs. Neeta Bhalla and**

another reported in **(2005) 8 SCC 89]**. Learned Judge should have adverted his attention to the law laid down by the Hon'ble Supreme Court in the above case. Further Sub-section 2 of Section 49 of the Act enables the companies to authorize a director to act as compliance officer and once such nomination has been done in accordance with law and such nomination is conveyed to the Director or the concerned controller or any legal metrology officer, there is an embargo on prosecuting the Directors of the company for the violation of any of the provisions resulting in commission of offences. If the complainant has got a case that apart from the Director nominated as the compliance officer under Section 49(2) of the Act, any other directors also have committed offences, the complainant is duty bound to satisfy the requirements under Section 49(4) of the Act, by providing necessary information along with the complaint. Learned JMFC has not applied his mind to any of these requirements. Non-application of the judicial mind by the learned JMFC is writ large on the face of the order itself.

Under such circumstances, these petitions are entitled to succeed and I proceed to pass the following:

ORDER

The above petitions are allowed.

The impugned orders passed by the learned Civil Judge and JMFC, Gokak dated 22.06.2020 in C.C.No.1040/2020, dated 10.06.2020 in C.C.No.1020/2020, dated 12.06.2020 in C.C.No.1016/2020 and dated 10.06.2020 in C.C.No.1018/2020 taking cognizance for the offences punishable under Sections 31 and 36 of the Legal Metrology Act, 2009 against all the petitioners are set aside.

It is open to the learned JMFC to apply his judicial mind afresh on the complaint as observed herein and take proper decision in accordance with law.

Sd/-
JUDGE

yan