

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

CrI.O.P.No.24387 of 2010
and
M.P.Nos.1 & 2 of 2010

1.Mr.T.Krishnaswamy
2.Mr.T.Venkatesh

...Petitioners

vs.

Govt. of Tamilnadu
Rep. By
Thiru K.Dharmalingam,
Inspector of Labour,
II Circle, Chennai-35.

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in C.C.No.6336 of 2010 pending on the file of XI Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.S.Mohan

For Respondent : No Appearance

O R D E R

The petitioners are accused 2 and 4 in C.C.No.6336/2010 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai. The respondent filed private complaint under the provisions of the Industrial Disputes Act, 1947 stating that one Mariadoss raised industrial dispute in I.D.No.254/1996 seeking reinstatement with

backwages, continuity of service and other attendant benefits and in that industrial dispute, an award was passed on 06.07.2005 directing the respondent therein, namely the first accused Management of Kumarasamy Automobiles to reinstate the said Mariadoss in service with 50% backwages, continuity of service and all other attendant benefits. As the said award was not complied with, the present prosecution is launched by the respondent.

2. The learned counsel for the petitioners submitted that even during the pendency of I.D.No.254/1996, Mr.Kumarasamy, proprietor of M/s.Kumarasamy Automobiles died on 06.03.1998 and without impleading the legal representatives of the said Mr.Kumarasamy, the award was passed and the petitioners, who are the legal representatives of the said Mr.Kumarasamy, have nothing to do with M/s.Kumarasamy Automobiles, which was closed on the death of Mr.Kumarasamy and therefore, the petitioners cannot be prosecuted for non-compliance of the award.

3. The learned Additional Public Prosecutor submitted that on enquiry it was found that M/s.Kumarasamy Automobiles was closed on the death of Mr.Kumarasamy, who was the proprietor and he died on 06.03.1998 during the pendency of the industrial dispute and the petitioners have nothing to do with the said automobile shop.

4. Though in the award dated 06.07.2005 in the preamble it has been stated that the management of M/s.Kumarasamy Automobiles was represented by counsel, in para 8 of the order it has been specifically stated that no arguments were advanced on the side of the respondent, despite several opportunities given to the respondent. It is seen from the death certificate filed in the typed set of papers that the said Mr.Kumarasamy died on 06.03.1998 and the award was passed on 06.07.2005 and therefore, much earlier to the passing of award, the said Mr.Kumarasamy, who was the proprietor of M/s.Kumarasamy Automobiles died and unfortunately, it was not brought to the notice of the Court and as a result, the legal representative were not impleaded and the award was passed against the management of M/s.Kumarasamy Automobiles. It is seen from the statement of the learned Additional Public Prosecutor that M/s.Kumarasamy Automobiles was closed on the death of the proprietor Mr.Kumarasamy and the petitioners are not continuing the business and therefore, as rightly submitted by the learned counsel for the petitioners, the petitioners cannot be prosecuted for non-implementation of the award.

5. Hence, this Criminal Original Petition is allowed and the proceedings in C.C.No.6336/2010 on the file of the XI Metropolitan

Magistrate, Saidapet, Chennai is quashed insofar as the petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

jvm

To

- 1.XI Metropolitan Magistrate,
Saidapet, Chennai.
- 2.-Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai.
- 3.Thiru K.Dharmalingam,
Inspector of Labour,
II Circle, Chennai-35.
- 4.The Public Prosecutor,
High Court, Madras.

1 CC to Mr.S.Mohan, Advocate SR.No. 15708

CrI.O.P.No.24387 of 2010

RJ (CO)
PSI (01.04.2015)

सत्यमेव जयते

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