

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

CRIMINAL REVISION CASE No.814 of 2007

Between:

Sri Mirza Taher Ahmed Baig.

... Petitioner

and

Employees State Insurance Corporation,
Having its Regional Office at 5-9-23,
Hill Fort Road, Hyderabad,
and another

... Respondents

DATE OF JUDGMENT PRONOUNCED: 21-07-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

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|--|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
fair copy of the Judgments? | Yes/No |

HON'BLE SRI JUSTICE M.S.K. JAISWAL

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CRIMINAL REVISION CASE No. 814 of 2007

ORDER:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C. against the judgment of the Chairman, Industrial Tribunal-I, Hyderabad (for short, 'the Tribunal'), dated 24.04.2007 in P.C.No.70 of

2004.

2. The petitioner was running a hotel by name M/s Café Sham, which was covered by the provisions of the Employees' State Insurance Act, 1948 (for short, 'the Act'). Certain violations were found in the periods from 10/1999 to 9/2000, from 10/2000 to 3/2002 and from 4/2003 to 11/2003. For the said period, the total contribution payable was determined at Rs.49,820/-. On this amount, the employer was liable to pay the interest. In spite of notice, the amount was not paid and hence the prosecution was launched.

3. The Tribunal after enquiry found that the petitioner has paid the contribution due in the year 2007 itself and it is evident from Exs.D.2 to D.6, which are the challans along with part payment of interest component, but the entire interest, as contemplated under the Act, has not been paid. For this violation, the Tribunal has convicted the petitioner for the offence punishable under Section 85(a) of the Act and sentenced to undergo simple imprisonment for three months and also to pay fine of Rs.5,000/-, in default, a sentence of simple imprisonment for twenty days; and the Tribunal also convicted the petitioner for the offence punishable under Section 85(e) of the Act and sentenced to pay fine of Rs.4,000/-, in default, a sentence to undergo simple imprisonment for fifteen days.

4. Aggrieved by the said conviction and sentence, it is contended by the learned counsel for the petitioner that the petitioner was running a small hotel and at present the said hotel is not in existence. It is further contended that whatever amounts were due towards contribution, the same have been paid by the petitioner as long back in the year 2007 itself, however, for a part payment of interest, the sentence of imprisonment for three months is excessive and exorbitant.

5. Having heard both sides, it is noticed that the violation alleged against the petitioner is that he was liable to pay the contribution from 1999 to 2003, but that was not remitted within time, and only after notice, the said amount was paid in the year 2007, and for the delay of remittance, the petitioner is liable to pay interest.

6. In the above circumstances, I feel that the conviction recorded by the Tribunal against the petitioner for the offences punishable under Sections 85(a) and 85(e) of the Act is upheld, but however, the sentence of simple imprisonment for three months for the offence punishable under Section 85(a) of the Act is set aside, while upholding the payment of fine of Rs.5,000/- and Rs.4,000/- respectively for the above said offences. However, the respondent No.1/Corporation is at liberty to issue fresh notice to the petitioner for the interest amount due after calculating and the petitioner shall pay the said amount within fifteen days from the date of receipt of the said notice.

7. With the above observations and directions, this criminal revision case is disposed of. As a sequel thereto, miscellaneous applications, if any pending in the criminal revision case, shall stand closed.

M.S.K. JAISWAL, J

Date: 21.07.2015

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