

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3237 OF 2014

Ajay Shridhar Bhagwat

.. Petitioner

-Versus-

Avinash Popat Dagade

..Respondent

Mr. Nitin Kulkarni for petitioner

Ms. Sai Chougule i/b. Mr. S.S.Deshmukh for respondent No.1

Mr.H.J.Dedhia, APP

CORAM : DR. SHALINI PHANSALKAR JOSHI, J.

DATE : 22nd February 2016.

P.C.

1] By this petition the petitioner has challenged the order dated 24th February 2014 passed by the Member, Industrial Court, Pune in Criminal Revision Application (ULP) No.38 of 2013. By the impugned order, the learned Member of Industrial Court, as dismissed the revision preferred by the petitioner challenging the process issued against him for the offence punishable under section 48(1) of M.R.T.U. & PULP Act, 1971.

2] The facts of the petition are that the respondent is employee of the petitioner in Company M/s. Renu Electronics Pvt. Ltd. The petitioner is

Managing Director of the said company. The respondent was appointed as a helper. At the relevant time respondent was working as despatch helper. There was a case pending between the employer and employee being (ULP) 263 of 2012 filed by the respondent, in which a joint pursis was filed by both the parties whereby respondent undertook to do the work assigned to him as despatch helper as per duty list whereas the petitioner hererin undertook to provide respondent with the work of despatch helper.

3] According to the respondent, the petitioner herein failed to provide him with the work as undertaken in joint pursis and he therefore filed Criminal Complaint (ULP) No.14 of 2013 before the labour court. After recording the verification and considering the material on record, the labour court issued process against the petitioner.

4] When the petitioner challenged this order of issue of process, before the Industrial court, the industrial court rejected the said revision by observing that whether the work provided to the respondent was as per the duty list or whether the respondent refused to do the work and whether there was any substance in the grievance raised by the respondent are matters which are disputed on facts and it was difficult to arrive at a conclusion whether there was really disobedience or a non

compliance with the order and only after recording of evidence the disputed question of facts will be decided. Accordingly, the Industrial Court rejected the revision.

5] In this petition, the learned Counsel for the petitioner had pointed out the order passed by this Court in Writ Petition No.5707 of 2014 dated 26th October 2015. In the said writ petition the petitioner had challenged the order passed by the Industrial court, Pune on 15th May 2014 directing the petitioner to provide work to the respondent strictly as per the terms and conditions of his appointment. While, allowing the petition, this court modified the order passed by the Industrial Court on 15th May 2014 to the effect that the petitioner was directed to provide the work of despatch helper to the respondent as per the duty list annexed as Exh.J and pay him the wages due. All the contentions of parties were kept open.

6] In my considered opinion, in view of this order passed by this Court in writ petition aforesaid on 26th October 2015, there can hardly remain any substance in the grievance raised by the respondent. Therefore, the order of issuance of process against the petitioner can no more survive and, therefore, needs to be quashed and aside.

7] Accordingly, the petition is allowed. Process issued against the petitioner by the labour court in Complaint (ULP) No.14 of 2013 for offence under section 48(1) of the MRTU & PULP Act 1971 is quashed and set aside.

(JUDGE)