

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.30529 of 2015

P.Anees Ahmed

... Petitioner

Vs

1. The State, represented by
The Superintendent of Police,
Vellore District.
 2. The State represented by
The Inspector of Police,
Vaniyambadi Taluk Police Station,
Vellore District.
 3. The Leather and Leather Goods-
Democratic Labour Union,
rep. by its President R.Sugundan
- Respondents

(R.3 impleaded as per order dated
28.1.2016 made in CrI.M.P.No.27
of 2016)

Criminal Original Petition filed under Section 482
Cr.P.C. to direct the respondents to register the FIR based on
the complaint lodged by the petitioner on 15.12.2015 and to take
necessary action by way of giving protection to the staff and
employees working in the petitioner's company and factory to
prevent any other further damages to the staffs and machineries
from the illegal sit and strike staged by the agitators after
the working hours and further direct the respondents to evict
the said illegal sit in and strike agitators from the company or
factory premises.

For Petitioner : Mr.A.K.Raghavulu

For respondents : Mr.C.Emalias,
Addl.Public Prosecutor,
for R.1 and R.2
Mr.S.Ravi, for R.3

ORDER

The present criminal original petition has been filed seeking a direction to the respondents 1 and 2 to register the FIR based on the complaint lodged by the petitioner on 15.12.2015 and to take necessary action by way of giving protection to the staff and employees working in the petitioner's company and factory to prevent any other further damages to the staffs and machineries from the illegal sit and strike staged by the agitators after the working hours and further direct the respondents 1 and 2 to evict the said illegal sit in and strike agitators from the company or factory premises.

2. The case of the petitioner, in nutshell, is as follows:-

(a) The petitioner is one of the Directors of Naser Bali (Gloves) Pvt. Ltd. The said company was established in the year 1989 and is engaged in manufacturing gloves and is involved in 100% export to America and European Countries. The said company has employed about 475 workmen in the manufacturing unit and maintained good relationship with workmen and ever since the year 1993, the management and the workmen periodically entered into bilateral agreements under the provisions of Section 18(1) of the Industrial Disputes Act, 1947 by holding bilateral discussions with regard to general demand including wage revision.

(b) In the year 2014, as the existing agreement had expired, there was a necessity to arrive at an agreement between the management and the workmen. Therefore, several bilateral discussions were held between the management and eight duly authorized representatives of workmen and finally, a bilateral agreement dated 17.7.2014 under the provisions of Section 18(1) of the Industrial Dispute Act, 1947 was entered into for the period from 1.4.2014 to 31.3.2017. Thereafter, the workmen were enjoying the benefits of the agreement and there is a specific clause in the agreement that there cannot be any claim involving financial burden to the management either directly or through union.

(c) After entering into an agreement, the Tamil Nadu Government had issued G.O.No.34 dated 8.7.2014 revising the minimum wages for the leather goods manufacturing, which was published on 13.8.2014. Therefore, there was a necessity for the management to take sufficient steps to comply and implement the same. While the agreement was valid till March, 2017 some of the senior workmen started to demand more salary as certain junior workmen's salaries were increased due to salary revision

on par with the statutory compliance of minimum wages G.O. On 20.7.2015, about 425 workmen resorted to illegal strike and at the intervention of RDO, they resumed to work. Even the Labour Officer, Vellore District issued advice to the employees as well as to the petitioner on 23.7.2015 to maintain industrial peace. The working hours of the factory are from 8.30 to 5.00 p.m. On 15.12.2015, without any notice to the employer, the employees numbering about 425 staged sit-in strike after working hours, which is against the well established principles of law and against the advice of the Labour Officer concerned. Since then, they are not allowing the employer and the staff to enter into the factory premises and they are also not allowing the finished goods to be taken out and raw materials to be taken into the premises. Hence, the petitioner lodged a complaint with the respondent police explaining about the illegal sit-in strike staged by the workers and requested them to give protection to their staff and properties. On receipt of the said complaint, CSR has been assigned as CSR No.509 of 2015. But, till date, no action was taken on the said complaint. Hence, the present petition.

3. Counter affidavit was filed by the third respondent, inter alia stating that as on date, there is no order of injunction by the civil Court restraining the members of the third respondent from collecting inside the factory premises after working hours. The alleged strike after the working hours do not disclose a cognizable offence. Neither the third respondent union nor the employees of the company committed any criminal trespass. The members of the third respondent union have not prevented the movement of the vehicle and raw materials and finished goods from and to the factory for the purpose of processing. Thus, they sought for the dismissal of the petition.

4. Learned counsel appearing for the petitioner made his submissions reiterating the averments made in the petition.

5. Learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that if there is any law and order problem, the petitioner is entitled for police protection. But, in the present case, the employees are doing sit-in strike inside the factory premises. Therefore, the police cannot enter into the factory premises. Thus, he opposed to give direction for police protection.

6. Learned counsel appearing for the petitioner denied the same and submitted that since the agitators are preventing the staff and employees of the factory, they sought for police protection.

7. Irrespective of the submissions made on either side, this Court is of the opinion that if there is any law and order problem, the petitioner is entitled for police protection. But, in the instant case, even according to the petitioner, the employees are conducting sit-in strike inside the factory premises after working hours. Hence, this Court cannot give any direction to the respondent police to enter into the factory premises of the petitioner and in this regard, the petitioner has to work out his remedy only before the appropriate forum, if the workers are conducting any sit-in strike inside the premises. However, if there is any life threat to the employer and management staff, in such a situation, the petitioner can approach the respondent police and if the petitioner approaches the respondent police, the respondent police can consider the request of the petitioner for police protection, if law and order situation warrants. The criminal original petition is disposed of accordingly.

sbi

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Superintendent of Police,
Vellore District.
2. The Inspector of Police,
Vaniyambadi Taluk Police Station,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.A.K.Raghavan, Advocate SR 5234

+ 1 cc to Mr.S.Ravi, Advocate SR 5176

rsy(co)
prk16/2

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