

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. Nos.15588 and 15589 of 2010
and
M.P.Nos.1 and 1 of 2010

Sam B. Jijina ... Petitioner in both Crl.OPs.
Vs.

The Tamil Nadu State
Rep by Inspector of Factories
First Circle, Kancheepuram
130/1 Gandhi Road
Sriperumbudur. ... Respondent in both Crl.OPs.

Criminal Original Petitions filed under Section 482,
Cr.P.C. to call for the records in C.C.Nos.149 and 150 of 2010
on the file of the Chief Judicial Magistrate, Chengalpet and
quash the same.

For petitioner : Mr.V.Karthic, Senior Counsel
for Mr.T.S.Gopalan & Co.

For Respondent : Mr. C. Emalias
Additional Public Prosecutor

ORDER

These petitions have been filed to call for the records
in C.C.Nos.149 and 150 of 2010 on the file of the Chief
Judicial Magistrate, Chengalpet and quash the same.

2. Heard the learned Senior Counsel for the petitioner
and the learned Additional Public Prosecutor appearing for the
State.

3. Nokia India Pvt. Ltd. [hereinafter referred to as
"Nokia"] had appointed one Sodexo Pass Services (India) Pvt.
Ltd. [hereinafter referred to as "Sodexo"] as one of their
contractors for catering services in their factory.
Therefore, Nokia has been registered as the principal employer
with the State Labour Department under the provisions of the
Contract Labour (Regulation and Abolition) Act, 1970
[hereinafter referred to as "the Act"]. Under the Act, a duty

is cast upon the principal employer and the contractor to register themselves with the authorities, provided the contractor employs certain number of employees. In this case, Nokia, has registered themselves as principal employer and Sodexo has also registered themselves as contractors under the Act.

4. On 13.02.2010, the Labour Inspector inspected the factory of Nokia and checked the records of Sodexo and found that they were not maintaining certain records as required under the Act and the Rules framed thereunder, for which they are punishable under Section 23 of the Act. After issuing show cause notice, the Labour Inspector has lodged two complaints in C.C.Nos.149 of 2010 and 150 of 2010 before the Chief Judicial Magistrate, Chengalpet against Sam B.Jijina, challenging which he is before this Court in these quash applications.

5. The short point that falls for consideration is as to whether Sam B.Jijina is a Contractor?

6. On a perusal of the records produced by the Factory Inspector, it is seen that the Contractor in this case is Sodexo, which is a juristic person. If there is any violation of the provisions of the Act and Rules, the juristic person can be prosecuted under Section 23 of the Act, since the word "person" would not only include natural, but juristic persons too. In this case, Sodexo has not been arrayed as an accused and on the contrary, Sam.B.Jijina has been shown as the Contractor, which is not factually true. The file produced by the Labour Inspector to this Court shows that the Contractor is Sodexo and they have appointed one Dyanesh Dyanand as their Manager of the contract at the work site. This is evident from Form-4, which is the application for licence that has been given by the Contractor to the Labour authorities under which they have been registered.

In the light of the above, the prosecution of Sam.B.Jijina is an abuse of process of law and accordingly, these petitions are allowed and the prosecution in C.C.Nos.149 and 150 of 2010 before the Chief Judicial Magistrate, Chengalpet is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Factories
First Circle, Kancheepuram
130/1 Gandhi Road
Sriperumbudur.

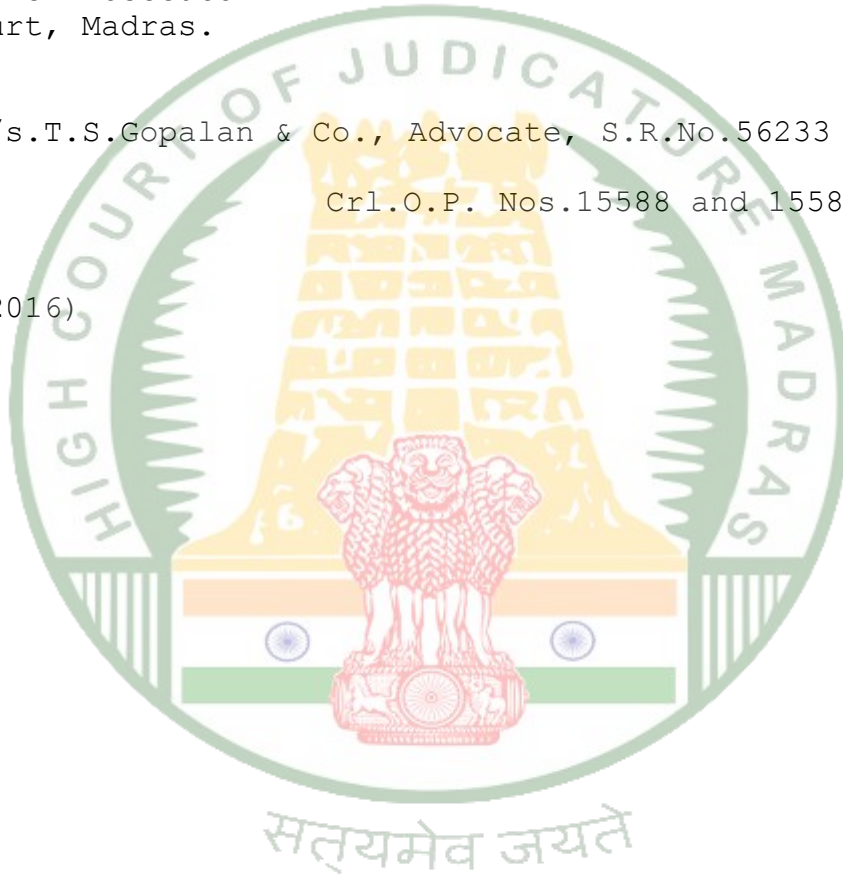
2.The Chief Judicial Magistrate,
Chengalpet.

3.The Public Prosecutor
High Court, Madras.

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.56233

CrI.O.P. Nos.15588 and 15589 of 2010

SSI (CO)
CA(22/10/2016)



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