

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 06.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.A.No.1644 of 2003

Employees State Insurance Corporation,
having its Regional Office at
No.143, Sterling Road, Chennai-600 034,
rep. by Inspector (Legal) ... Appellant/Complainant

Vs.

M/s.Geity Theatre
rep. by its Proprietor,
Senthilnathan,
Chennai-600 002. ...Respondent/Respondent

Criminal appeal preferred under Section 378 of Cr.P.C.,
against the judgement dated 08.09.2003 passed by the learned II
Metropolitan Magistrate, Egmore, in C.C.No.1726 of 2002 dated
08.09.2003.

For Appellant : Mrs.S.Jayakumari

For Respondent : ---

JUDGMENT

This appeal is preferred against the order of acquittal
passed by the learned II Metropolitan Magistrate, Egmore,
Chennai in C.C.No.1726 of 2002 dated 08.09.2003 acquitting the
respondent/accused herein.

2. The Inspector (Legal) attached to the office of the
Employees State Insurance Corporation has given the complaint
against the respondent/accused under Section 85(G) of Employees
State Insurance Corporation Act, on the ground that the
respondent did not submit records for inspection under Section
102-A of the ESI Regulation Act. The complaint has been taken
on file and during trail, the complainant examined two witnesses
and marked six documents.

3. The specific case of the complainant is that since the
ESI corporation wants to inspect the records of the respondent
company for the year (1999 - 2000) and notice has been sent to

the accused on 26.03.2001 directing them to produce the records, the records have not been produced. Thereafter, on 03.04.2001, the Inspector went to the premises for inspection, but at that time the Managing Director was not present. Hence, another notice was issued on 03.04.2001 for inspection. But, on that day no records were furnished to him and thereafter, another notice has been issued to the respondent/accused. But, the respondent/accused has not produced any records. Hence, the complaint has been filed.

4. Based on the above materials, the Trial Court framed charge for the offence under Section 85(G) of Employees State Insurance Corporation Act, and the accused denied the same as false. In order to prove the case of prosecution, as many as 2 witnesses were examined and 6 documents were exhibited. After considering all the materials, the trial Court acquitted the accused. Challenging the same, the complainant filed the present appeal.

5. I have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent and perused the records available on record

6. On perusal of records it is seen that a notice has been issued to the petitioner on 27.05.2001 for prosecuting the respondent/accused, but it was not served on the respondent/accused. Even though an order has been passed for launching prosecution, the notice dated 26.03.2001 said to have been issued by the Regional Director of the appellant/complainant to the respondent/accused to produce the document, which is basis for launching prosecution. It is not proved by the appellant that the letters have been received by the accused, and no acknowledgement has been produced by the complainant. Considering all the evidence, the trial Court has held that since there is no proof for issuance of notice to the respondent/accused, particularly the notice dated 26.03.2001, the complaint filed by the appellant is not maintainable. Considering the facts and circumstances of the case, I find no perversity or irregularity in the order passed by the Court below and there is no reason to interfere with the order of acquittal passed by the Court below, hence there is no merit in this appeal and the same is liable to be dismissed.

7. In the result, the Criminal Appeal is dismissed and the order of acquittal passed by the learned II Metropolitan Magistrate, Egmore in C.C.No.1726 of 2002 dated 08.09.2003 is confirmed .

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rrg

To

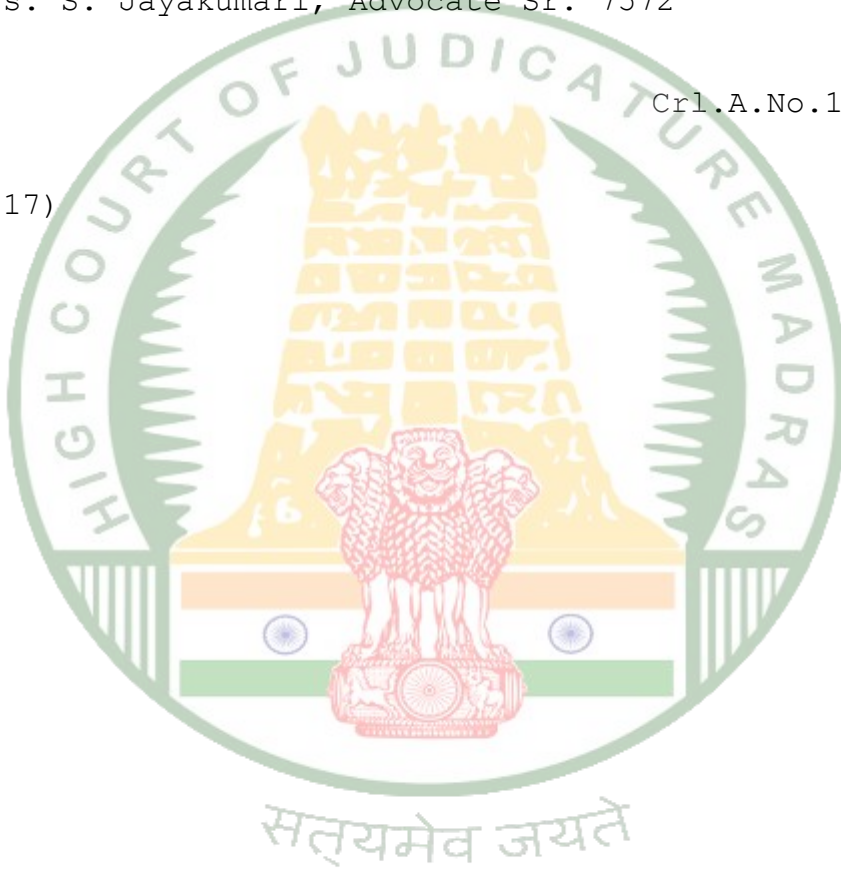
The Metropolitan Magistrate No.II,
Egmore.

Copy to :- The Section Officer,
Criminal section,
High Court, Madras-104.

+lcc to Mrs. S. Jayakumari, Advocate Sr. 7572

Crl.A.No.1644 of 2003

RJ(CO)
VR(21/4/2017)



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