



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P.(MD)No.3580 of 2011

1. The Management,
The Sri Ganapathy Mills Company Ltd.,
Sankar Nagar,
Tirunelveli.
 2. K.V.Rajendran,
S/o.K.Venkatasamy,
Managing Director,
The Sri Ganapathy Mills Company Ltd.,
Sankar Nagar,
Tirunelveli.
 3. Amutha Rajendran,
W/o.K.V.Rajendran,
Director,
The Sri Ganapathy Mills Company Ltd.,
Sankar Nagar,
Tirunelveli.
 4. R.Karthikeyan,
S/o.K.V.Rajendran,
Director,
The Sri Ganapathy Mills Company Ltd.,
Sankar Nagar,
Tirunelveli.
- ... Petitioners/Accused 1 to 4

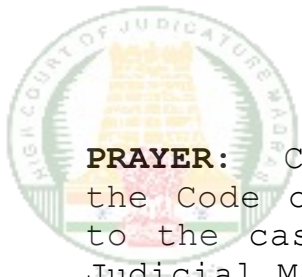
Vs.

- 1.State Rep. by
Labour Inspector,
P.R.Govindan,
Tirunelveli.

- 2.N.Kandaiah
- ... Respondents/Complainants

(R-2 is impleaded as per the order of this Court made in M.P.No.3 of 2011 in Cr1.O.P.No.3580 of 2011 vide its order dated 05.04.2011

by RSPJ)



PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the case in STC No.3406 of 2008 on the file of the Court of Judicial Magistrate No.IV, Tirunelveli and quash the same.

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For Petitioners : Mr.M.Suri

For 1st Respondent : Mr.K.Anbarasan
Government Advocate (Crl.side)

For 2nd Respondent : Mr.R.Krishnamoorthy

O R D E R

This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure to quash the case in STC.No.3406 of 2008, pending on the file of the Court of Judicial Magistrate No.IV, Tirunelveli.

2. The second respondent/Kandiah is an employee in the first petitioner/company. Without any prior permission from the Industrial Tribunal Chennai, the second respondent was dismissed from service by the petitioners. He raised the Industrial Dispute before the Industrial Tribunal. The Industrial Tribunal upheld the punishment, but directed that the second respondent has to be paid with the back-wages for the period of his dismissal. The petitioners as well as the second respondent challenged the award before this Court and filed a writ petition in W.P.Nos.11436/1996 and 1145/1997.

3. This Court, vide order dated 08.07.2003, dismissed the writ petition filed by the Management and the petition filed by the second respondent was allowed thereby the award of the Tribunal was set aside. It was ordered that since the second respondent was deemed to be in service he would be entitled to all the benefits. Subsequently, the second respondent was reinstated into the service by the management, however, he was not paid any back-wages. However, subsequently an action was initiated by the Labour department through G.O.No.721 dated 25.10.2006 on the basis, a complaint filed by second respondent is punishable under Section 29 of the I.D. Act, 1947. Further, the petitioners challenged the said G.O.No.721, through which, the filing of the charge sheet under Section 29 of the I.D.Act 1947, against the petitioners was ordered. The petitioners filed a writ petition before this Court in W.P.(M.D)No.7405 of 2008, challenging the aforesaid Government Order, however, this Court dismissed the petition on 05.10.2010. Thereafter, the petitioners have filed this quash petition to stay all further proceedings in the case in S.T.C.No.3406 of 2008, pending on the file of the learned Judicial Magistrate Court, Tirunelveli.



4. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the first respondent.

5. The learned counsel for the petitioners and the respondent fairly conceded that the petitioners were directed to pay the arrear amount by way of demand draft and the due amount has been settled by the petitioners. Accordingly, the petitioners filed a memo stating that the petitioners agreed to pay the back wages for a sum of Rs.3,62,385/- by way of Demand Draft in favour of the second respondent/complainant, towards full and final settlement in C.P.No.51 of 2004 on the file of the Labour Court, Tirunelveli.

6. In view of the above, nothing survives for further adjudication. Therefore, I am inclined to quash the case in S.T.C.No. 3406 of 2008 on the file of the learned Judicial Magistrate No.IV., Tirunelveli.

7. It was further submitted, that the petitioners have paid already and apart from the above if any amount is available before the Labour court, liberty is granted to the second respondent to withdraw the said amounts, which were deposited by the petitioners with accrued interest as per the memo filed by the petitioners.

8. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.IV, Tirunelveli.

2. The Labour Inspector,
P.R.Govindan, Tirunelveli.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 cc TO Mr.M.Suri , Advocate in SR No. 94165

+ 1 cc TO Mr.S.Sivakumar , Advocate in SR No. 94162

das/msvm

AE/JC/SAR1/09.02.2018/3P/6C