

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[Reserved on : 25.06.2018]

[Pronounced on : 04.07.2018]

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.561 of 2018
and
Crl.M.P.Nos.6620 and 6621 of 2018

Raghu @ A.R.Raghuraj ... Petitioner/Accused

.. Vs ..

M/s. Meridian Apparels Limited,
Rep. by Power of Attorney,
M.Saravanan working as Manager
in the M/s. Meridian Apparels Limited,
its branch office
8/626, A.V.P. Layout,
Angeripalayam Road,
Thiruppur. ... Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., praying to set aside the sentence of conviction made in C.A.No.6 of 2017 dated 31.01.2018 on the file of the learned I Additional District and Sessions Judge, Thiruppur and confirming the sentence and judgment in C.C.No.1 of 2016 dated 14.12.2016 on the file of the learned Judicial Magistrate No.I, Tirupur by allowing the criminal revision.

For Petitioner : Mr.M.Saravana Kumar
For Respondent : Mr.R.Sathish Kumar

ORDER

The revision petitioner herein is the accused in C.C.No.1 of 2016 on the file of the learned Judicial Magistrate No.I, Tirupur. The respondent herein is the complainant.

2. Mr.R.Sathish Kumar, learned counsel takes notice on behalf of the respondent.

3. According to the respondent/Company, the revision petitioner/accused is employed under the respondent/de facto complainant and he was allotted a quarters and due to the misconduct, he was dismissed from service and hence, the respondent has sought for eviction of the revision petitioner/accused from the quarters. As the revision petitioner/accused refused to do so, the respondent has filed a private complaint under Section 630 of the Companies Act, 1956 r/w. Section 200 of Cr.P.C. After observations of the formalities for the private complaint, the learned Judicial Magistrate No.I, Tiruppur has taken the case on file and numbered as C.C.No.1 of 2016.

4. The suggestive case of the revision petitioner/accused is that the Company law is not applicable to the facts and circumstances of the case and the revision petitioner/accused does not holding the allotted quarters under employment and the complaint filed is not maintainable. However, it is further projected that the revision petitioner's mother-in-law is the original owner of the larger extent of the land and a house was put up by them and accordingly, seeks for dismissal of the complaint.

5. Before the trial Court, on behalf of the complainant, P.W.1 and P.W.2 were examined and Exs.P.1 to P.21 were marked. On the side of the accused, D.W.1 was examined and Exs.D.1 to D.5 were marked.

6. The trial Court, based upon the oral and documentary evidence, has come to a conclusion that the revision petitioner herein is under employment with the respondent herein and he was also allotted a quarters, the subject matter of the petition property and also given a two wheeler in connection with employment and accordingly held that the property belongs to the Company, the respondent herein and accordingly, held that the revision petitioner is liable to be convicted under Section 630 prior to amendment and after amendment Section 452 of the Companies Act and accordingly, convicted under Section 630 of the Companies Act and imposed a fine of Rs.10,000/- and in default of payment of fine to undergo six months rigorous imprisonment.

7. The Lower Appellate Court, after considering the order passed by the trial Court and also considering all the facts and circumstances of the case, confirmed the judgment passed by the trial Court. As against which, the present Criminal Revision Case is filed.

8. Learned counsel appearing for the revision petitioner/accused would contend that it is the property of the revision petitioner and the civil dispute is now been given a

criminal cover. However, after going through the records especially Ex.P.18, both the Courts below have given a categorical finding that the accused was employed as Electrician in the complainant company and his services were been terminated on 01.09.2009 and further, he has filed a petition before the Labour Court, Coimbatore, for reinstatement.

9. Once the service of the accused is terminated, he is bound to deliver the company quarters to the de facto complainant company and on his failure, the same is treated as wrongfully withholding the property belonging to the company. On such being the case, both the Courts below, have categorically taken note of the documents marked as Exs.P.6 and P.17, which were admitted by the revision petitioner in the cross-examination, which goes to show that he is residing in the said premises in view of his employment in the petition premises.

10. Accordingly, I do not find any illegality or irregularity in the order passed by both the Courts below and as such, the petitioner has committed the offence under Section 630 of the Companies Act (prior to amendment) [Section 452 of the Companies Act, 2013 as amended] and hence, the judgments of conviction and sentence passed by both the Courts below does not call for any interference at my instance and the same are hereby conformed.

11. In the result, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

Jr1

To

1. The Additional District and Sessions Judge,
Thiruppur.

2. The Judicial Magistrate No.I,
Tirupur.

Copy to

The Section officer

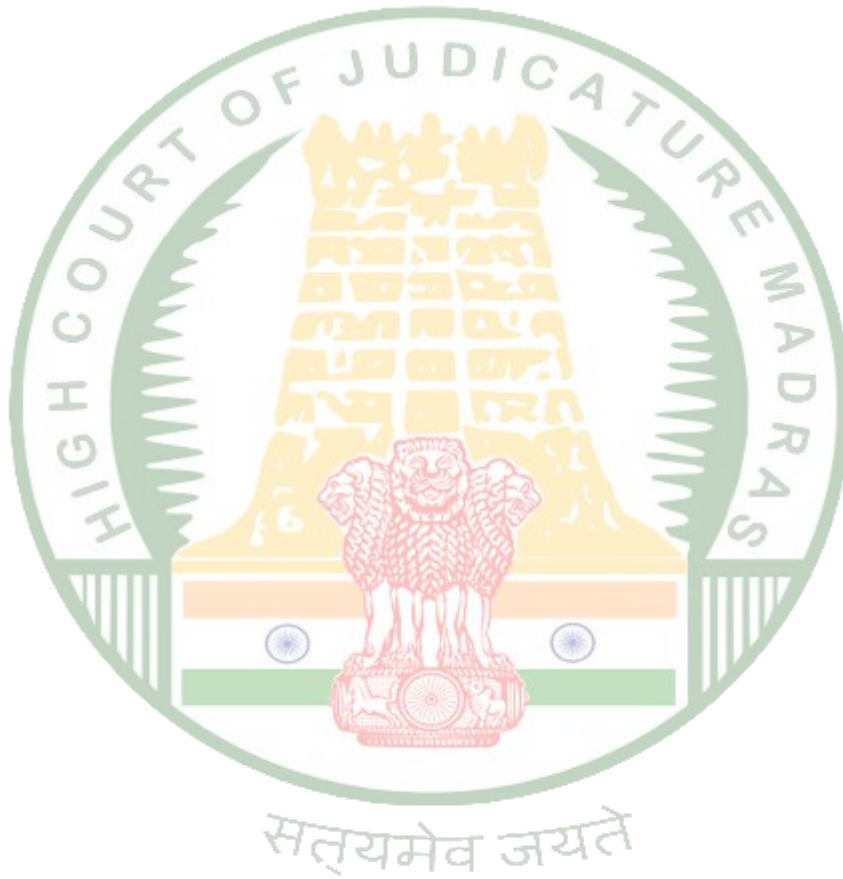
Criminal Section, High Court, Madras 104.

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+1 CC to Mr.M. Saravana Kumar, advocate sr 42883.
+1 CC to Mr.R. Sathish Kumar, Advocate sr 42948.

Cr1.R.C.No.561 of 2018

SP (18/07/2018)



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