

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.No.212 of 2016

1. M/s.Arvind Remedies Limited,
Rep. by its Managing Director,
G28, 29, SIPCOT Industries Estate,
Irungatukottai, Sriperumbudur,
Kancheepuram - 602105.
 2. Dr.B.Arvind Shah
- ... Petitioners

Vs.

1. M/s."Voice of Nature"
Rep. by its President, Mr.R.Gokulraj,
Regn.No.Adhigathur Raod, Manavalnagar,
Thiruvallur District-602 002
 2. CMK Reddy
 3. R.Raja Mohan
 4. V.R.Metha
 5. Chandra Ravindran
 6. Sudhir Chandra
 7. G.Ramesh Kumar
- Respondents

The Criminal Revision filed under Section 397 r/w 401 of Cr.P.C of Code of Criminal Procedure to set aside the order dated 29.12.2015 made in C.M.P.No.1822 of 2015 in C.C.No.219 of 2015 by the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur.

For Petitioners : Mr.Gopalakrishna Lakshmana Raja,
Senior Counsel for Mr.T.M.Madav Yadav

For Respondents : Mr.C.S.Monica for R1

ORDER

The first respondent herein filed a complaint against the petitioners and the respondents 2 to 7 under Section 25 of Tamil Nadu Water (Prevention and Control of Pollution) Act, 1974 (herein after referred to as "the Act"), before the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur, which was taken on file in C.C.No.219 of 2015. Pending the above case, the petitioners along with respondents 2 to 7 have filed a miscellaneous petition in C.M.P.No.1822 of 2015, seeking

discharge. The learned Magistrate, after hearing both sides, had dismissed the petition by an order dated 29.12.2015, against which, the accused 1 & 2 have filed the present criminal revision before this Court.

2 The learned Senior Counsel appearing for the petitioners would submit that the first respondent has no locus standi to file a private complaint against the petitioners. The petitioner had obtained consent from the Tamil Nadu Pollution Control Board (herein after referred to as "the Board") for establishment of the factory and operated the same. The Board has sent a notice for violation of certain conditions and soon after receiving the said notice, the petitioner had closed the factory and therefore they have not committed any offence. Since the petitioners had violated certain conditions, the Board had sent notice, for which, the petitioners had sent a proper reply, and hence it is between the Board and the petitioners. The first respondent, being a private person, has no locus standi to file a complaint against the petitioner Company. Further, the allegations made in the complaint does not constitute an offence under Section 25 of the Act. If there is any violation of the conditions by the petitioners, it is for the Board to take any action against the petitioners. The Board has not taken any criminal action against the petitioners and they only returned the application submitted by the petitioner and sent a notice and the petitioners also replied for the said notice. The trial Court failed to consider these aspects and erroneously dismissed the petition, seeking discharge, which warrants serious interference.

3 The learned counsel for the first respondent would submit that Section 49(b) of the Act enables any person to file a private complaint after effecting 60 days prior notice to the Board, which has been complied with by the first respondent and hence the contention of the learned Senior Counsel appearing for the petitioners that this first respondent has no locus standi to file a complaint against the petitioners is not acceptable. Further in the complaint, there are allegations, which clearly reveals that the petitioners had committed offence under Section 25 of the Act. The learned Magistrate had elaborately discussed all the contentions raised by the learned Senior Counsel and given reasons for dismissal of the petition, seeking discharge. Therefore, the petitioners have to face trial for the offence committed by them.

4 Heard the learned Senior Counsel appearing for the petitioners and the learned counsel appearing for the first respondent and perused the materials available on record.

5 Admittedly the petitioners had obtained consent from the Board to establish the Factory and subsequently, for the violation of certain conditions by the petitioners, the Board had issued a notice and as per Section 49 (b) of the Act, the Board or any person can file a private complaint, after compliance of 60 days notice. The first respondent had issued notice as contemplated under Section 49 (b) of the Act and therefore question of locus standi does not arise and the learned Magistrate also answered accordingly. Section 49 (b) of the Act reads as follows:

"(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Board or officer authorised as aforesaid, and no court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act."

6 Therefore, the first respondent has locus standi to file a complaint against the petitioners. Further there are prima facie allegations against the petitioners and while deciding petition, seeking discharge, the Court has to see the allegations made in the complaint and the documents annexed with the complaint and not defence of the accused. The probative value of the materials need not be gone into at this stage and the same can be done only after trial.

7 In the result, the criminal revision is dismissed as there is no illegality or infirmity in the order passed by the Court below, and the Court below is directed to proceed further, in accordance with law. Further, the personal appearance of the petitioner before the Court below is dispensed with. However, the petitioner is directed to appear before the Court below as and when required.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

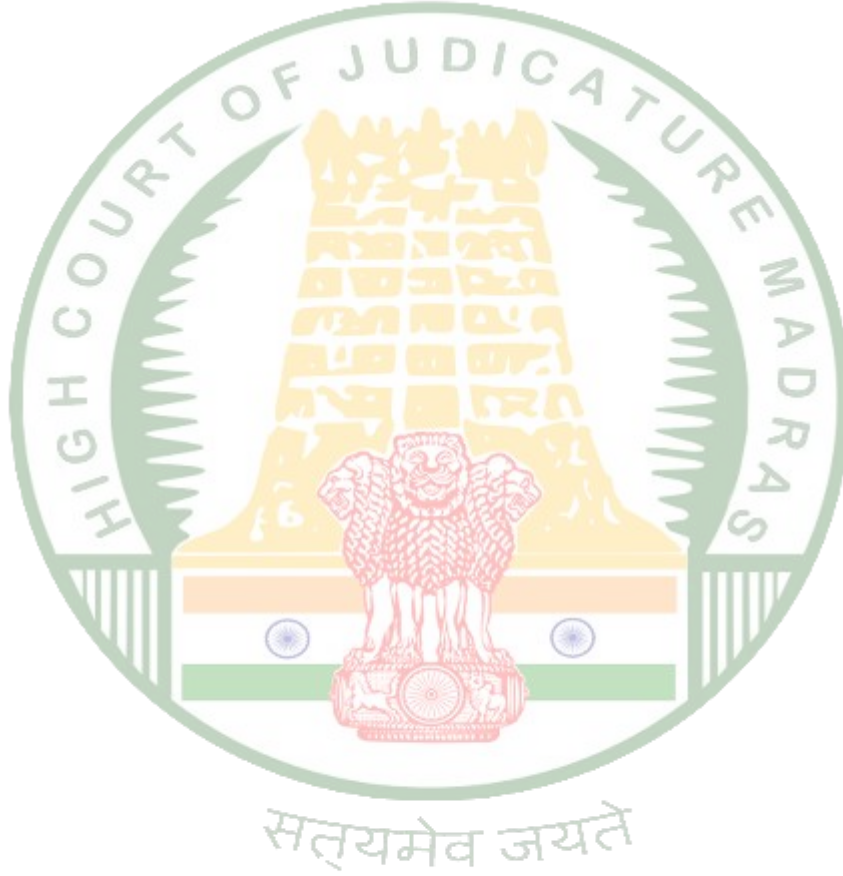
The District Munsif-cum-Judicial Magistrate, Sriperumbudur.

+1 cc to M/s.R.Radhapandian, Advocate Sr.No.68588

+1 cc to M/s.C.S.Honica, Advocate Sr.No.68680

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CP (CO)
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