

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

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THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.No.3984 of 2014
AND M.P.NOs.1 & 2 OF 2014

The Director,
Rep.by Dr.P.K.Roy
Central Cattle Breeding Farm
Avadi, Chennai 600 052. Petitioner/Accused

Vs.

The State rep.by
Labour Enforcement Officer (Central)
Government of India,
Ministry of Labour and Employment
No.26, Haddows Road,
Shasthri Bhavan,
Chennai 600 006. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in CC.No.262 of 2013, on the file of the Judicial Magistrate, Ambattur and quash the same.

For Petitioner : Mr.S.Sounthar

For Respondents: Mr.N.Ramesh,
Central Government Standing Counsel.

सत्यमेव जयते
O R D E R

The petitioner is the accused in C.C.No.262 of 2013 on the file of the Judicial Magistrate, Ambattur. The respondent/complainant, Labour Enforcement Officer (Central) Government of India, Ministry of Labour and Employment, No.26, Haddows Road, Shasthri Bhavan, Chennai 600 026 filed a private complaint before the Judicial Magistrate, Ambattur under Section 34 of the Industrial Disputes Act, 1947 against the present petitioner. In the private complaint it is alleged that the petitioner/accused who was then the Director-in-charge, Central Cattle Breeding Farm, Avadi, Chennai did not implement the Award dated 07.11.1995 of the Industrial Tribunal No.6/1986 in relation to the dispute between the Management of Central

Cattle Breeding Farm, Chennai and the Workmen represented by the President, Agriculture and Irrigation Workers Union, Chennai. It is further alleged that the workmen represented by the Agriculture and Irrigation workers Union had submitted their representation dated 09.08.2011 to the Director, Central Cattle Breeding Farm to implement the Award. Since no action was forthcoming from the Management of Central Cattle Breeding Farm, Chennai they had sent a representation to the Deputy Chief Labour Commissioner (Central) - In-charge, Chennai. It is also alleged that the Deputy Chief Labour Commissioner (Central) in-charge vide by letter dated 07.09.2011 had called the parties to the Award on 20.09.2011 in order to settle the issue between the parties. However, Dr.P.K.Roy, Director-in-charge sought three months' time to implement the award. According to the respondent/complainant, this Court by order dated 23.11.2011 issued direction to the Secretary, Labour & Employment to consider and pass orders on the representation dated 03.09.2011 of the Union within a period of four weeks from the date of receipt of a copy of the order and despite the said order no steps were taken to implement the Award and finally the Ministry of Labour & Employment vide OM No.L-52029/2011-IR (Imp-I) dated 03.10.2012 had accorded sanction to initiate prosecution against Dr.P.K.Roy, Director-in-charge, Central Cattle Breeding Farm, Avadi, Chennai.

2. The learned counsel for the petitioner would contend that the present petitioner is now working in Orissa and that without obtaining a proper sanction order as contemplated under Section 197 of Criminal Procedure Code, the Labour and Enforcement Officer (Central), Government of India, Ministry of Labour & Employment had filed the complaint in C.C.No.262 of 2013 before the Judicial Magistrate, Ambattur and therefore the entire proceedings is liable to be quashed.

3. Per contra, the learned counsel for the respondent contended that a sanction order was obtained from the appropriate Government and it was also filed along with the complaint and therefore the proceedings in C.C.No.262 of 2013 cannot be quashed.

4. The learned counsel for the petitioner drew the attention of this Court to the proceedings in F.No.ES-I/23(1)/2012, Government of India, Ministry of Labour & Employment, Office of the Chief Labour Commissioner (C) New Delhi, dated 05.10.2010 in which it is stated that a copy of the sanction order of the competent authority under Section 29 of the I.D. Act, 1947 as conveyed by Ministry of Labour & Employment vide letter No.L-52029/26/2011 IR (Imp-I) dated 03.10.2012 was forwarded to the Deputy CLC(C) and contended that the office memorandum though states that the Deputy Secretary to the Government of India was

directed to convey the sanction of the competent authority of the appropriate Government under Section 29 of the Industrial Disputes Act, 1947 to initiate the present proceedings against P.K.Roy, Director-in-charge, Central Cattle Breeding Farm, Department of Animal Husbandry Dairying & Fisheries, Avadi, Chennai for non-implementation of CGIT Award I.D.No.6/1986 dated 07.11.1995 it has not been specifically mentioned that a sanction was given to prosecute the present petitioner under Section 197 Cr.P.C. Therefore the learned counsel for the petitioner contended that the proceedings of the Government of India, Ministry of Labour & Employment, Office of the Chief Labour Commissioner (C) New Delhi, dated 05.10.2012 cannot be construed as sanction given by the appropriate Government.

5. At the out set, it may be observed that a perusal of the letter dated 05.10.2012 shows that a sanction order was conveyed by the appropriate Government under Section 29 of the Industrial Disputes Act, 1947 to proceed against the present petitioner. The contention of the learned counsel for the petitioner is that the proceedings of Government of India, Ministry of Labour & Employment is ambiguous as far as the granting of sanction to prosecute the present petitioner and that unless the respondent/complainant produces a copy of the sanction order, the Magistrate cannot take cognizance of the offence cannot be accepted at this stage for the following reasons:-

1. This Court in the petition filed under Section 482 of Cr.P.C. cannot conduct a roving enquiry as to whether the letter dated 05.10.2012 is a proper sanction order given by the appropriate Government.

2. The learned Magistrate can always enquire into this at the time of trial and give a finding after recording evidence on both sides.

6. At this stage, I do not find any reason to interfere in C.C.No.262 of 2013. However, since the case is pending from the year 2013, the learned Judicial Magistrate, Ambattur is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order.

7. As far as M.P.No. 2 of 2014 is concerned, the workmen represented by the President, Agriculture and Irrigation Workers Union, Alamadhi, Avadi, Madras, has filed the petition to implead them as a party in Crl.O.P.No.3984 of 2014. It is pertinent to point out that the petitioner has filed the Crl.O.P.No.3984 of 2014 to quash the proceedings in C.C.No.262 of 2013 on the file of Judicial Magistrate, Ambattur which was initiated by the Labour Enforcement Officer (Central), Government of India, Ministry of Labour and Employment on the

basis of the complaint given by the Workmen represented by the President, Agricultural and Irrigation Workers Union, Alamadhi, Avadi, Madras - 52.

8. In the above facts and circumstances, I do not see any reason to implead the petitioner in the Crl.O.P. as they are not proper and necessary parties for the reasons mentioned in the forgoing paragraphs. Accordingly this miscellaneous petition is dismissed.

9. In the result the criminal original petition is disposed of, with the above direction. Consequently M.P.No.1 of 2014 is also closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Judicial Magistrate Court,
Ambattur.
2. The Labour Enforcement Officer (Central)
Government of India,
Ministry of Labour and Employment
No.26, Haddows Road,
Shasthri Bhavan, Chennai 600 006.

+1cc to M/S.N.Ramesh, Advocate Sr.54993

+1cc to Mr.S.Sounthar, Advocate Sr.54800

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AND M.P.Nos.1 & 2 OF 2014

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srg 26/09/2018