



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Cr1.O.P.(MD)No.22917 of 2013

and

M.P(MD).No.1 of 2013

M/s.Dalmia Cement(Bharat) Ltd.,
Represented by
Mr.J.V.Gungune, Executive Director
and the Principal Employer,
Dalmiapuram,Lalgudi Taluk,
Trichy District

... Petitioner/Accused No.1

Vs.

State Rep. by,
The Labour Enforcement Officer(Central)
Government of India, Ministry of Labour and Employment
510-A,MC Donald Road,
Trichy

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records connected with S.T.C.No.42 of 2013 on the file of Judicial Magistrate Court, Lalgudi and quash the complaint and all consequential proceedings.

For Petitioner	: Mr.C.Muthu Saravanan
For Respondent	: Ms.K.R.Laxman

ORDER

This Criminal Original Petition has been filed to call for the records connected with S.T.C.No.42 of 2013 on the file of Judicial Magistrate Court, Lalgudi and quash the complaint and all consequential proceedings.

2.The respondent herein filed a complaint under Section 24 of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour(Regulation and Abolition) Central Rules, 1971, alleging the commission of offence by the accused company, namely, M/s.Dalmia Cement(Bharat) Limited, Lalgudi Taluk, Trichy District. This Criminal Original Petition has been filed to quash the said complaint.

3.When the matter was taken up for hearing, the learned counsel appearing for the petitioner invoked under Section 305 Cr.P.C. It deals with the Procedure when corporation or registered society is an accused. Section 305(2) Cr.P.C., 1973 states that "Where a



corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation".

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4. Therefore, it is clear from a bare reading of the said provision that the accused company will decide, who will represent the company in the criminal trial or enquiry. It is not for the complainant to specify the person who will represent the accused company. In this case, to this limited extent, the impugned proceedings will have to be quashed.

5. It is made clear that S.T.C.No.42 of 2013 will go on against M/s.Dalmia Cement (Bharat) Ltd. The accused company has filed an affidavit stating that Mr.E.Vasudevan, Senior Manager of the company will represent the company in the said criminal proceedings. In other words, instead of Mr.J.V.Gungune (Executive Director), Tr.E.Vasudevan, Senior Manager will represent the accused company in S.T.C.No.42 of 2013 on the file of the Judicial Magistrate Court, Lalgudi.

6. In view of the above, this Criminal Original Petition is allowed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/
Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Lalgudi

2. The Labour Enforcement Officer (Central)
Government of India, Ministry of Labour and Employment
510-A, MC Donald Road, Trichy

+1cc to Mr.C.MUTHUSARAVANAN, Advocate, SR.No. 60573

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MSA