



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.02.2018

Delivered on : 06.03.2018

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THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Crl.O.P. (MD) No.4142 of 2013

and

M.P. (MD) Nos.2 and 3 of 2013

Mani Spinning Mills (P) Ltd.,
Represented through its Managing Director,
A.R.Subramanian,
Nagampatty, Vedasandur,
Pin - 624 710,
Dindigul District.

... Petitioner/Accused No.1

Vs.

The Superintendent [Legal],
Employees State Insurance Corporation,
2nd West Street, K.K.Nagar,
Madurai - 625 020.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to S.T.C.No.1885 of 2012 on the file of the Judicial Magistrate Court No.VI, Madurai, and quash the same insofar as the petitioner is concerned.

For Petitioner	: Mr.V.O.S.Kalaiselvam
For Respondent	: Mr.K.C.Ramalingam

ORDER

The petitioner Mill is Accused No.1 in S.T.C.No.1885 of 2012 on the file of the Judicial Magistrate Court No.VI, Madurai. They filed this Criminal Original Petition to call for the records pertaining to the abvoesaid S.T.C. and to quash the same as illegal.

2.The case of the prosecution is that as per the orders passed under Section 45-A of the Employees State Insurance Act [hereinafter referred to as 'the Act'], the respondent is claiming contribution for the period between 10/2001 and 3/2009. Aggrieved over the same, the petitioner filed a petition under Section 75 of the Act before the Employees State Insurance Court, challenging the orders passed by the respondent/complainant in E.S.I.O.P.No.50 of 2008, dated 09.06.2011. In the meanwhile, the petitioner filed a Writ Petition



before this Court in W.P.No.26326 of 2017 and in the clarification petition, he wanted to issue a direction to the respondent to recover the contribution with prospective effect in the light of the judgment of the Hon'ble Supreme Court in **Employees' State Insurance Corporation Vs. Distillers and Chemical Mazdoor Union** reported in **2006 (6) SCC 604**. According to him, in the year 2007 itself, a Dispensary was opened in Vedasandur area and the employees to continue to get medical benefits and such other attendant benefits from the Petitioner Mill/Accused No.1 only from the year of 2008. Further, most of the employees to the period claiming contribution are left from the services. In the above circumstances, pending Writ Petition, a criminal complaint was filed for violation of law laid down by this Court and thereby, the complaint filed by the respondent is liable to be quashed.

3.On the other hand, the learned counsel appearing for the respondent submitted that the petition mentioned S.T.C.No.1885 of 2012 has been filed for non-submission of declaration forms under the provisions of the Act. He further added as without seeing the charge sheet filed by the respondent, the learned counsel appearing for the petitioner made a submission as those are all not at all relevant to the case in hand.

4.Now, considering the submissions made by the learned counsel appearing on either side, it is relevant to see the copy of the charge sheet filed by the respondent in the Judicial Magistrate Court No.VI, Madurai, in which, at Paragraph No.10, it has been stated as follows:

'10.That the non-submission of declaration forms and the Returns in Form-3 as per provisions of Section 44(1) of the said Act, read with regulations 11, 12 and 14 of the said Regulations to the Employees' State Insurance Corporation which amounts to an offence under sub-section (g) of Section 85 of the said Act has been committed within the jurisdiction of this Hon'ble Court and punishable under clause (ii) of Section 85 of the said Act.'

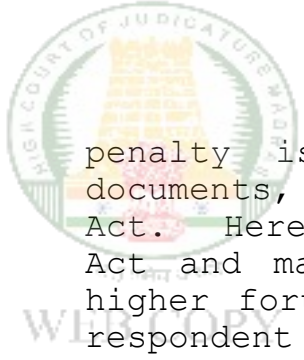
5.So, contents of the charge is very relevant for the submission made by the learned counsel appearing the respondent. Further, it is relevant to extract below Section 85(g) of the Act:-

'85.Punishment for failure to pay contributions, etc.-

(g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of

https://hcservices.ecourts.gov.in/hcservices/ which no special penalty is provided, ''

6.According to the abovesaid provision, since no special



penalty is provided in the Act for non-submission of those documents, the same has to be punished under Section 85(g) of the Act. Here, the petitioner has misconstrued the provisions of the Act and made a submission as already the matter is seized by a higher forum. So, without understanding the prayer sought by the respondent in the complaint, the petitioner filed this petition and argued as due to the pendency of the Writ Petition, the complaint filed by the respondent is not sustainable one and therefore, this Court comes to the conclusion that this petition is filed after misconceiving the facts and circumstances. Accordingly, I have no hesitation to dismiss the Criminal Original Petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.VI,
Madurai.
2. The Superintendent [Legal],
Employees State Insurance Corporation,
2nd West Street, K.K.Nagar,
Madurai - 625 020.

+ 1 CC TO Mr.K.C.RAMALINGAM, ADVOCATE IN SR No. 53193

SMN2

TE/KK/SAR-4 : 16/03/2018 : 3P/4C

order in
Crl.O.P.(MD)No.4142 of 2013 and
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