

\$~16

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 3532/2017

ASHISH MISHRA Petitioner
Through Mr. Neeraj Chaudhari, Adv

versus

STATE & ANR Respondents
Through Ms. Aasha Tiwari, APP
SI Sanjay Singh, PS Ambedkar Nagar

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **25.09.2018**

By this petition under section 482 Cr.P.C. petitioner has prayed for quashing of complaint case No.59/M/17 titled as “Inspector Sunil Kumar vs. Ashish Mishra” pending in the court of learned Metropolitan Magistrate –Evening Court, Patiala House Court, New Delhi and consequent proceedings emanating therefrom.

It is contended that in the complaint case under section 22 of Minimum Wages Act, 1948 and rules made thereunder titled as “Inspector Sunil Kumar vs. Ashish Mishra”, the company M/s. Vodafone Mobile Services Ltd. has not been arrayed as an accused. It is contended that without impleading the company, the persons allegedly responsible for the affairs of the company cannot be prosecuted.

Reliance has been placed on *Sanjeev Gupta vs. State Govt. of NCT of Delhi 2008(3) JCC 2110*. In the said case, complainant had

impleaded Sh. Sanjeev Gupta, Managing Director of M/s Hindustan Coca Cola Marketing Private Limited as accused; whereas the company was not arrayed as an accused. Learned Single Judge held as under:-

“As far as the present complaint is concerned, the company has not been arrayed an accused, therefore the essential requirement for applicability of section 22 C of the Act is absent. In the circumstances, merely stating in para 7 of the complaint that the petitioner was in charge of the affairs of the company would not be relevant at all. Para 7 of the company might have been sufficient if the company had been made an accused. However, as in the present complaint, if the only accused is the petitioner in his capacity as Managing Director then the complaint would have to contain a specific averment connecting the petitioner here with the offence committed. The complaint when read as a whole does not even prima facie make out a case against the petitioner for the offence under the Act.”

In this complaint also M/s. Vodafone Mobile Services Ltd. has not been arrayed as an accused, in as much as designation of petitioner has not been mentioned.

The complaint does not contain any specific averment connecting the petitioner with the offence committed by the company.

For the aforesaid reasons, petition is allowed. Complaint case No.59/M/17 titled as “Inspector Sunil Kumar vs. Ashish Mishra” and consequent proceedings emanating therefrom are quashed.

A.K. PATHAK, J

SEPTEMBER 25, 2018/sm