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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.22433 of 2013 and
M.P.No.1 of 2013

M.C.Jolly

... Petitioner/Accused

Vs.

The Inspector of Factories,
1st Circle, 617, Bharath Kumar Bhavan,
Chennai - 600 006.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to C.C.No.1336 of 2013 pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai, and to quash the same.

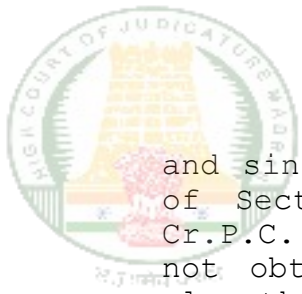
For Petitioner : Mr.M.T.Arunan

For Respondent : Mr.R.Ravichandran,
Government Advocate (CrI.Side)

ORDER

The respondent herein filed a private complaint against the petitioner before the learned Metropolitan Magistrate, Egmore, Chennai, for the offence punishable under Section 92 of the Factories Act 1948 r/w Tamil Nadu Factories Rules 1950 (hereinafter referred to as the Act and Rules respectively). The learned Magistrate has taken cognizance on the same in C.C.No.1336 of 2013. During pendency of the above case, the petitioner has approached this Court seeking to quash the same invoking Section 482 of Cr.P.C.

2 Learned counsel appearing for the petitioner would submit that the victim is not a permanent employee and even otherwise on his own negligence only the accident has taken place. All the officers immediately rushed to the place of occurrence and followed all the procedures and compensation was also paid without any delay. Further the petitioner is the Manager Chief Mechanical Engineer/Quality Control of Integral Coach Factory, which is controlled by the Railway Board and the petitioner was appointed through Union Public Service Commission



and since the petitioner is a public servant within the meaning of Section 21 of IPC, prior sanction under Section 197 of Cr.P.C. is mandatory. In the present case, the respondent has not obtained any such sanction and therefore, on that ground also the complaint against the petitioner has to be quashed. The learned counsel, in support of his contentions, has placed reliance on the decision rendered by the High Court of Karnataka in Crl. Petition No.3742 of 2000 in the case of P.K.Chaterjee vs. State of Karnataka.

3 Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the Integral Coach Factory is run by the Railway Board and it is not come under the definition of Government servant. Therefore, sanction is not necessary as contended by the learned counsel appearing for the petitioner. Hence the present petition seeking quashing of proceedings is liable to be dismissed.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 Even though, the learned counsel contended that the petitioner is employee of Integral Coach Factory, which comes under Ministry of Railway, but the fact remains that the Factory is run by the Railway Board and the petitioner is not a public servant and therefore question of sanction under Section 197 of Cr.P.C. would not arise. Further prima facie there is allegations against the petitioner. This Court is not inclined to exercise power under Section 482 of Cr.P.C and quash the proceedings.

6 In the result, the criminal original petition stands dismissed. Consequently connected miscellaneous petition is closed. However, the petitioner is at liberty to raise all his defence before the trial Court.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

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1. The Chief Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Factories,
1st Circle, 617, Bharath Kumar Bhavan,
Chennai - 600 006.
3. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.M.T.Arunan, Advocate Sr.103248

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M.P.No.1 of 2013

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srg 17/02/2020