

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.20544 to 20550 of 2017
Crl.MP. Nos. 12295 to 12299 and
12300 to 12305 and 12307 to 12309 of 2017

1. M/s. Unitex Exports
G-19, Second Main Road,
Industrial Estate, Ambattur,
Chennai - 600 058.
 2. P.K. Radhakrishnan
 3. V.K. Prabhalakshmi
- ... Petitioners in
all Crl.OPs

Vs.

Employees Provident Fund Organisation,
rep.by A.R. Devakumar, Inspector,
Sub-Regional Office,
R-10, A-, TNHB Shopping-cum-Office Complex,
Mogappair Road, Mogappair East,
Chennai-600037.

....Respondent
in
all Crl.OPs

COMMON PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the record pertaining to the proceedings in C.C.Nos. 264, 262,263, 259,258, 207 and 260 of 2010 pending on the file of the Judicial Magistrate, Ambattur and quash the same.

For Petitioners : M/s. W.M. Abdul Majeed
(in all Ops)

For Respondent : M/s. J.Sathyanarayana Prasad, SC
(in all OPs)

COMMON ORDER

This Criminal Original Petition has been filed to to call for the record pertaining to the proceedings in C.C.Nos. 264, 262,263, 259,258, 207 and 260 of 2010 pending on the file of the learned Magistrate, Ambattur and quash the same.

2. The petitioners herein are arrayed as accused 1 to 3 respectively in the complaint preferred by the respondent. The 1st accused is the Company and the accused 2 and 3 are in-charge of the said company and are responsible to the conduct of the business.

3. The brief facts leading to the complaints filed by the respondent against the petitioners is that the 1st petitioner company is the establishment brought under the purview of Employees Provident Funds and Miscellaneous Provisions Act, 1952 w.e.f 01.05.1986 under Section 1(3)(a) of the Act. The Provident Fund Code number allotted to such establishment is TN/AMB/022064000.

4. It is stated that as per paragraphs 30 & 38 of the Employees Provident Fund Scheme 1952, the accused are required to pay the Administrative Charges within 15 days of the close of every month. In spite of several request, the accused have failed to pay the Administrative Charges for the year 2009-2010 before dues dates. Hence, the respondent has preferred the complaint against the petitioners herein under Sections 14 (1A), 14(A) of Employees Provident Funds and Miscellaneous Provisions Act, 1952.

5. The learned counsel for the petitioners would submit that the petitioners had every intention to pay the contribution and administrative charges to the respondent organisation within the due date of every month, but because of the down fall in the petitioner's business they could not able to pay the contributions in time for the year 2009-2010. He has further submitted that the petitioners' business was permanently closed with effect from 31.10.2011. Even then the petitioners had paid the outstanding amount in full to the respondent organisation.

6. Heard Mr. W.M. Abdul Majeed, learned counsel for the petitioners and Mr. J.Sathyanaarayana Prasad, learned Senior Counsel for the respondent and perused the documents available on record.

7. Considering the facts and circumstances of the case and also considering the arguments made by the learned counsel on either side, this Court is of the view that there is no merit in the present petitions. However, considering the age of the 2nd and 3rd petitioners, their personal appearance before the learned Judicial Magistrate, Ambattur in respect of the C.C.Nos. 264, 262,263, 259,258, 207 and 260 of 2010 is dispensed with except on the dates of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

8. Further on considering the fact that the proceedings are pending from the year 2010 onwards, the learned Judicial Magistrate, Ambattur is directed to complete the trial within a period of six (6) months from the date of receipt of a copy of this order.

9. With the above observations and directions, these Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Ambattur

2. -do-Through' The Chief Judicial Magistrate, Chennai

+lcc to Mr.J.Sathyanarayana Prasad, Advocate SR.No.26421

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KK (CO)

GMV (18/06/2019)

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