



BEFORE THE MADURAI BENCH OF MADURAI HIGH COURT
DATED:25.10.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WEB COPY

Crl.O.P.(MD) No.13771 of 2019
and
Crl.M.P(MD) Nos.8403 and 8405 of 2019

G.Sahoo

... Petitioner/Accused

Vs.

Labour Enforcement Officer(Central)
Government of India
Ministry of Labour and Employment
13-a, 1st Floor
Lady Doak College Road
Chinna Chokkikulam
Madurai- 625 002

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to Call for the records relating to STC No.393 of 2018 on the file of the learned Judicial Magistrate No.II, Madurai and quash the same against the petitioner.

For Petitioner : Mr.S.Manoharan
For Respondent : Mr.Pon Senthilkumaran

O R D E R

This petition has been filed to quash the proceedings in STC No.393 of 2018 on the file of the learned Judicial Magistrate No.II, Madurai , as against this petitioner.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, a case was registered for the offence under Rules 81(1)(i) and 82(2)r/w.Section 24 of Contract Labour (Regulation and Abolition) Act, 1970 as against the petitioner and taken cognizance in STC No. 388 of 2018. Hence he prayed to quash the same.

3. Heard Mr.S.Manoharan learned counsel appearing for the petitioner and Mr.Pon Senthilkumaran , learned Government Advocate (Crl.Side) appearing for the respondent.

4.It is seen that there is a specific allegation as against the petitioner, which has to be investigated. The investigating machinery has to step in to investigate, grab and unearth the crime



in accordance with the procedures prescribed in the Code. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

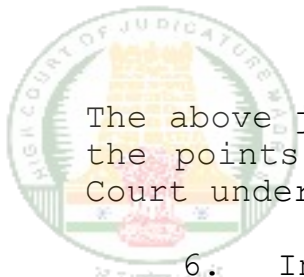
" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

5. Recently, the Hon'ble Supreme Court of India held in respect of the very same issue in Crl.A.No.1572 of 2019 - Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."



The above judgment is squarely application to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

6. In view of the above discussion, this Court is not inclined to quash the proceedings STC No.393 of 2018 on the file of the learned Judicial Magistrate No.II, Madurai. Hence this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition in Crl.M.P(MD) No.8403 of 2019 stand closed and Crl.M.P(MD) No.8405 of 2019 stands ordered.

7. Further, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.II, Madurai

+1 CC to Mr.S.PON SENTHIL KUMARAN, Advocate (SR-94765[F] dated 25/10/2019)

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and

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