

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.3426 of 2020
and Crl.MP.Nos.2029 & 2030 of 2020

K.Murali Rao
Managing Director,
New Woodlands Hotel Pvt.Ltd.,
No.72 to 75, Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004. ... Petitioner

Vs.

New Woodlands Hotel Employees Union,
(Regn. No.3509/CNI) having its regd. Office,
at A.P.261, 11th East Cross Street,
M.K.B. Nagar, Chennai - 600 039.
Rep. By its Honorary President
A.Kannabiran Respondent

PRAYER: Criminal Original Petition filed under Section 482 of
Cr.P.C. praying to call for the records in C.C.No.8037 of 2019
on the file of the X Metropolitan Magistrate Court, Egmore,
Chennai and quash the complaint dated 12.07.2019.

For Petitioner : Mr.S.Ravindran, Senior Advocate
For Mr.S.Bazeer Ahamed

For Respondent : No appearance

ORDER

This petition has been filed to quash the proceeding in
C.C.No.8037 of 2019 on the file of the learned X Metropolitan
Magistrate, Egmore, Chennai thereby taken cognizance for the
offences under Sections 25T & 25U of the Industrial Disputes Act
1947, as against the petitioner.

2. The learned Senior Counsel appearing for the petitioner
would submit that the petitioner is arrayed as sole accused on
the complaint lodged by the respondent herein for the offences
under Sections 25T & 25U of the Industrial Disputes Act, 1947.
He further submitted that, to lodge the complaint for the

offences under the Industrial Disputes Act, the complainant should be made by the authority of the appropriate government. Under Section 34 (Cognizance of offences) of the Industrial Disputes Act, the respondent is not a competent person to lodge the complaint for the offences punishable under the Industrial Disputes Act. Therefore the entire proceedings is liable to be quashed and sought for quashment of the entire proceedings.

3. Heard Mr.S.Ravindran, learned Senior Counsel appearing for the petitioner. Though notice served and name also printed in the cause list, no one is appeared on behalf of the respondent either by person or through pleader.

4. The respondent lodged complaint as against the petitioner for the offences under Sections 25T & 25U of the Industrial Disputes Act 1947, on the allegations that the petitioner has committed the offence of unfair labour practice. On perusal of the complaint it shows that, the workmen of the petitioner represented by trade unions and they have entered into a periodical settlements in respect of wages and other benefits. During month of July 2016, the existing two unions and the respondent union, which was formed during the year 2014, submitted their demands. In respect of two other unions, they are agreeing for a wage settlement and the respondent union did not accept the same and raised the industrial dispute before the Labour Officer, Chennai.

5. However, by a government order in D.O.(D).No.322, Labour and Employment (A1) Department dated 17.05.2018, the Government of Tamil Nadu referred nine issues. The said order was challenged by the petitioner in W.P.No.14792 of 2018 and the same was quashed by an order dated 02.08.2018. Thereafter, the respondent union sent a representation that the petitioner indulged in unfair labour practice and also lodged a private complaint for the offences under Sections 25-T & 25-U of the Industrial Disputes Act 1947, as against the petitioner herein. The Sections 25T and 25U of Industrial Disputes Act is reads as follows :-

25T. Prohibition of unfair labour practice.- No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (16 of 1926), or not, shall commit any unfair labour practice.

25U. Penalty for committing unfair labour practices.- Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or

with both.] CHAP PENALTIES CHAPTER VI
PENALTIES

Section 34 of the Industrial Disputes Act is reads as follows :-

34. Cognizance of offences-

(1) No Court shall take cognizance of any offence punishable under this Act, or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of 1[a Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence punishable under this Act.

Accordingly, when the unfair labour practice committed by the employers or the trade union, the said offence can be taken cognizance only on the complaint lodged by or under the authority of the Government to the competent Magistrate Court.

6. In the case on hand, the respondent union lodged the complaint but the respondent is not a competent person to lodge the complaint for the offences under Sections 25T & 25U of the Industrial Disputes Act, as against the petitioner herein. Therefore, the complaint itself is not filed by the competent person or under the authority of Government of Tamil Nadu in terms of the Industrial Disputes Act. Hence, the complaint itself is not maintainable and it is liable to be quashed.

7. In view of the above discussion, this Criminal Original Petition is allowed and the proceeding in C.C.No.8037 of 2019 on the file of the X Metropolitan Magistrate Court, Egmore, Chennai, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
सत्यमेव जयते

Assistant Registrar(CS III)

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Sub Assistant Registrar

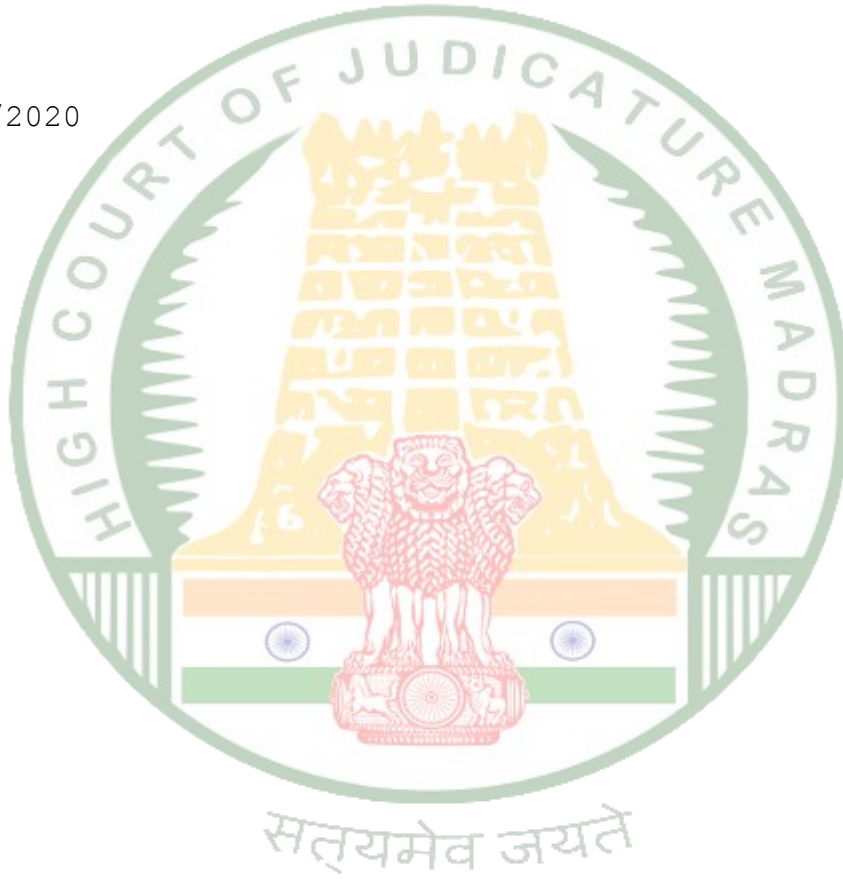
To

1. The X Metropolitan Magistrate,
Egmore, Chennai.

2. -Do- Thro The Chief Metropolitan Magistrate Court,
Egmore, Chennai.

CRL.O.P.No.3426 of 2020 and
Crl.MP.Nos.2029 & 2030 of 2020

AJS[CO]
SRG 09/10/2020



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