

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.4754 of 2014

Mr.Vimal Jain

... Petitioner

Vs.

Bureau of Indian Standards
(Southern Regional Office)
Rep by its Joint Director Mr.A.J.Vinod
4th Cross Road, CIT Campus,
Taramani, Chennai – 600 113.

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records pertaining to proceedings in C.C.No.5273 of 2013 pending on the file of the Hon'ble XVIII Metropolitan Magistrate at Saidapet, Chennai and quash the same so far as it relates to the petitioner.

For Petitioner : Ms.A.Priyadarshini

For Respondent : Mr.T.S.Rajmohan

SCGSC

ORDER

This criminal original petition has been filed seeking to call for

the records in C.C.No.5273 of 2013 pending on the file of the learned

XVIII Metropolitan Magistrate at Saidapet, Chennai and to quash the same in so far as it relates to the petitioner.

2.The petitioner is arrayed as the first accused in C.C.No.5273 of 2013 on the file of the learned XVIII Metropolitan Magistrate at Saidapet, Chennai, for the alleged offence under Section 11 (1) of the Bureau of Indian Standards Act, 1986.

3.The respondent/ Bureau of Indian Standards (hereinafter called as 'BIS') is a statutory body established by an Act of Parliament 1986 called the Bureau of Indian Standards Act, 1986 and its functions are the formulation of Indian Standards and implementation of Certification Marks Scheme for goods and services in the Union of India.

4.Section 11 (1) of the BIS Act, 1986, states that 'no persons shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the standard mark or any colorable intimidation thereof, except under a licence'. Section 14 of

BIS Act 1986, states that 'if the Central Government, after consulting

the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette,

- (a) notify any article or process of any scheduled industry which shall conform to the Indian Standard; and (b) direct the use of the Standard Mark under a licence as compulsory on such article or process'.

5.The petitioner is the manufacturer of the marketable item called rubber mats for electrical purposes, manufactured and sold to A2 and A3. According to the complainant, the accused was marketing rubber mats for electrical purposes with ISI monogram – embossed on the rubber mats for electrical purposes without any valid licence and it should be sold only after getting licence from the complainant. Hence, the respondent had lodged the complaint.

6.The learned counsel appearing for the petitioner would submit that the petitioner was one of the Directors of M/s.Kanta Rubber Private Limited, a company incorporated on 19.12.1989 under the provisions of Companies Act, 1956 and he had resigned from the position of Managing Director as early as on 27.08.1998 and retired

from the Board of Directors of the said company and Form 32 was also filed with the Registrars of Companies on 25.08.2000 itself. However, the respondent has lodged the complaint during the year 2013 after a lapse of nearly 13 years, which is un-sustainable.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The allegation against the petitioner is that the petitioner is the proprietor of M/s.Kanta Rubber Private Limited, a company manufacturing the marketable item called rubber mats for electrical purposes without any valid licence. However, the fact remains that the petitioner was one of the Directors of M/s.Kanta Rubber Private Limited and he resigned from the position of Managing Director as early as on 27.08.1998 and retired from the Board of Directors of the said company and Form 32 was also filed with the Registrars of Companies on 25.08.2000 itself. Hence, the petitioner is not responsible for the day to day affairs of the company at the time of filing complaint. Further the impugned complaint itself is filed after 13 years of the resignation of the petitioner. Hence the impugned

complaint is misconceived.

9.In view of the above, I have no hesitation to allow this criminal original petition. This criminal original petition is accordingly allowed

and the proceedings in C.C.No.5273 of 2013 on the file of the learned XVIII Metropolitan Magistrate at Saidapet, Chennai, is hereby quashed in respect of this petitioner alone. Consequently, connected miscellaneous petition, if any, is closed.

21.02.2020

pri

Speaking Order/ Non Speaking Order

Index: Yes/ No

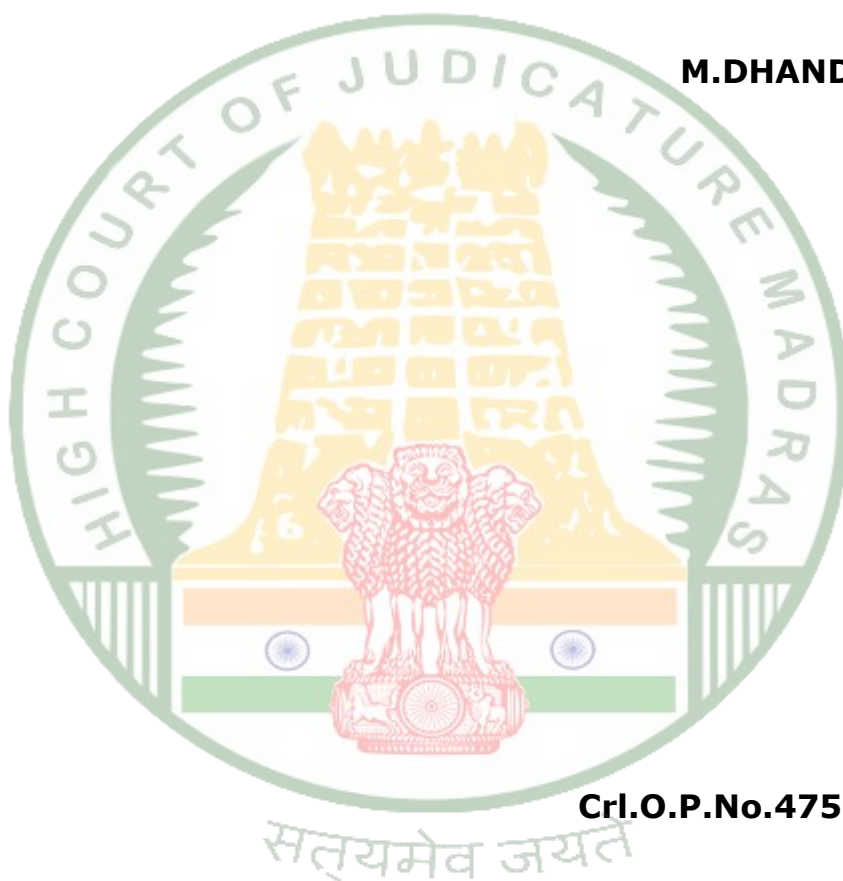
Internet: Yes/ No

To

1.The XVIII Metropolitan Magistrate at
Saidapet, Chennai.

2.Bureau of Indian Standards
(Southern Regional Office)
Rep by its Joint Director Mr.A.J.Vinod
4th Cross Road, CIT Campus,
Taramani, Chennai – 600 113.

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

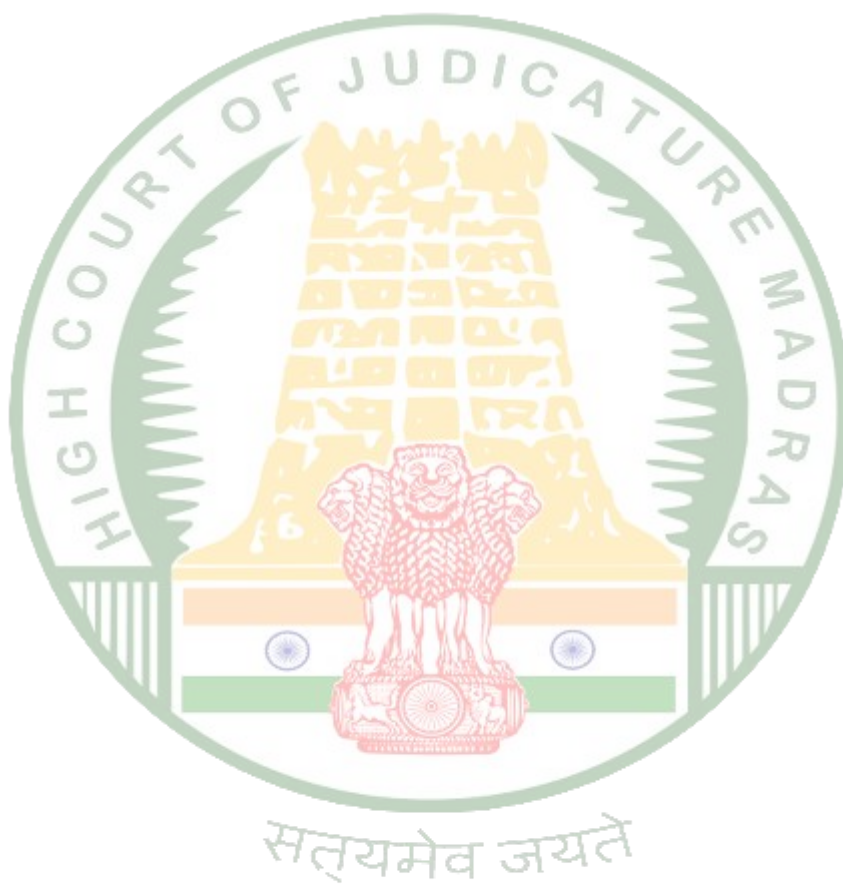


M.DHANDAPANI,J.
pri

CrI.O.P.No.4754 of 2014

WEB COPY

21.02.2020



WEB COPY