

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.32969 & 32970 of 2014  
and  
M.P.Nos.1,1,2 & 2 of 2014

Victor Surguna Santhakumar ...Petitioner/Accused in both Crl.OPs  
Vs.

State by Deputy Director,  
Industrial Safety and Welfare,  
I Circle- Kancheepuram,  
Sriperumbudur. ... Respondent/Complainant  
in both Crl.OPs

Common Prayer: Petitions filed under Section 482 of Cr.P.C.,  
seeking to call for the records in C.C.Nos.190 & 191 of 2014,  
now pending trial on the file of the Chief Judicial Magistrate,  
Chengalpattu and quash the same.

in both Crl.OPs

For Petitioner : Mr.T.K.Akash for  
M/s.T.S.Gopalan and Co  
For Respondents : Mr. C.Iyyapparaj, APP

COMMON ORDER

The petitioner was the Manager of NVH India Auto Parts Pvt. Ltd., having its factory at SIPCOT Industrial Park, Irungattukottai, Sriperumbudur. The petitioner was implicated on the basis of the complaint that certain provisions of the Factories Act was not complied with by the company in which he was employed and, therefore, case in C.C. Nos.190 & 191 of 2014 came to be filed, which is pending trial on the file of the Chief Judicial Magistrate, Chengalpattu. The present petitions have been filed to quash the said complaints.

2.It is the case of the petitioner that the company, viz., NVH India Auto Parts Pvt. Ltd., was inspected by the respondent on 21.1.14 and certain irregularities committed by the said company came to light, which culminated in the filing of the complaint. The petitioner has also been roped in as an accused, as he was the Manager of the company and the allegation being

that Form I had not been maintained properly. A show cause notice was issued pursuant to which complaint was filed.

3. Learned counsel appearing for the petitioner submitted that on the date of inspection, i.e., 21.1.14, the petitioner was not in the employment of the said company, as his service stood terminated on 9.10.13 itself. It is further submitted that the petitioner is neither the Occupier nor the Manager on the date of inspection and, therefore, implicating the petitioner as an accused, which is per se unsustainable. Similar prosecution in C.C. Nos.187 to 189 of 2014 was also taken against the petitioner which led to the filing of CrI. O.P. Nos.30360 to 30362/14 and this Court vide order dated 12.2.15, stayed the said complaints and, therefore, in the light of the above, it is prayed that these petitions be allowed.

4. Learned counsel appearing for the 1<sup>st</sup> respondent submitted that though the services of the petitioner was terminated prior to the date of inspection, however the said fact has not been communicated to the 1<sup>st</sup> respondent. Further it is the submission of the learned counsel for the 1<sup>st</sup> respondent that as the Manager of the company, it is duty of the petitioner, during his tenure in the said company, to have maintained the books as per the provisions of the Factories Act. However, the petitioner has not followed the provisions and committed irregularities, which necessitated the filing of the complaint.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

6. True it is that the 1<sup>st</sup> respondent has noted certain irregularities, which necessitated the filing of the complaint. However, could the 1<sup>st</sup> respondent raise the complaint in respect of the petitioner is concerned, is the moot question that falls for consideration.

7. It is an admitted fact that the services of the petitioner were terminated on 09.10.13 itself. On and from the said date, the petitioner could neither be construed as an employee/Manager nor an Occupier of the said plant. However, as is evident from the records and which is not in dispute, the inspection had been taken out by the 1<sup>st</sup> respondent on 21.1.14, much after the termination of the petitioner from the services of the company. That being the factual position, the petitioner not being in the services of the company, even for any alleged irregularities, if any, committed by the petitioner, neither any complaint could be lodged against him nor any prosecution initiated at the behest of the said complaint. The petitioner

not being an employee of the company on the date of inspection, no complaint could be maintained against the petitioner for any alleged irregularities.

8. In the above circumstances, this Court has no hesitation to quash the complaint against the petitioner in C.C. Nos.190 and 191 of 2014, pending on the file of the Chief Judicial Magistrate, Chengalpet. Accordingly, the complaint in C.C. Nos.190 and 191 of 2014 on the file of the Chief Judicial Magistrate, Chengalpet, are quashed and these criminal original petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs/GLN

To

1.The Chief Judicial Magistrate, Chengalpattu.

2.The Deputy Director,  
Industrial Safety and Welfare,  
I Circle- Kancheepuram,  
Sriperumbudur.

3.The Public Prosecutor,  
High Court Madras-104.

+1 cc to M/s.T.S.Gopalan & Co, Advocate Sr.No. 17244

Crl.O.P.Nos.32969 & 32970 of 2014

and

M.P.Nos.1,1,2 & 2 of 2014

RLD(CO)

RMP(29/09/2020)

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