

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.24278 of 2014
and
Crl.M.P.No.1 of 2014

Usha Venkatramani

... Petitioner

Vs.

Employees' State Insurance Corporation,
Represented by its Branch Manager,
Branch Office Royapettah,
No.143, Sterling Road,
Chennai - 600 034. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records, to call for the records relating to C.C.No.3799 of 2006 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and quash the same as against the petitioner.

For Petitioner : M/s.Rugan & Arya

For Respondent : M/s.T.N.C.Kaushik

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.3799 of 2006, pending on the file of the II Metropolitan Magistrate Court, Egmore, Chennai.

2.The petitioner is A3. The case of the respondent is that the respondent is the Branch Manager of Employees' State Insurance Corporation, Royapettah, Chennai and the 1st accused is the company viz., M/s.Kashyap Radiant Systems Limited, Chennai and other accused are its Directors. As per Section 40 of the Employees' State Insurance Act, 1948, the Principal Employer shall pay both the contributions i.e., Employer's Share of Contribution and Employees' Contribution in respect of every employee in the first instance and the Principal Employer is entitled to recover the Employee's Share of Contribution from their wages relating to the period in respect of which the contribution is payable and also required to submit the Corporation Returns and particulars and also maintain Registers

as per Section 44 read with various provisions of Employees' State Insurance (General) Regulations Act, 1950. While being so, the accused have failed to submit the said Return of Contribution in Form-6 in respect of his employees for the contribution period ended on 09/03, 3/04 & 9/04, which should have been submitted by them on or before 11.11.03, 12.05.04 & 11.11.04 to the respondent.

3.Thus, the failure to submit the said Return to the Corporation, the accused have committed an offence under Section 85(e) and 85(ii) of the Employee's State Insurance Act, 1948. Further, the Regional Director has accorded sanction for prosecution of the accused to the above said offences as required under Section 86(1) of the Act. Hence, the respondent has filed the private complaint before the learned II Metropolitan Magistrate, Egmore. Challenging the said complaint, the present petition is filed.

4.The learned counsel for the petitioner would submit that the 1st accused is the company viz., M/s.Kashyap Radiant Systems Limited, Royapettah and the 3rd accused is one of the Director of the 1st accused company. The petitioner has been made as an accused in this case on the ground he is one of the Director of the A1 company.

5.He would further submit that the petitioner having resigned from the company, even before the non filing of returns for the period ending September 2003, March 2004 and September 2004. Further, there is no specific averments against her except for the bald allegations. Even on perusal of the Form No.32, it will reveal that the petitioner was resigned from the 1st accused company on 19.04.2000.

6.The learned counsel for the respondent has not disputed the fact as alleged by the learned counsel for the petitioner.

7.Considering the rival submissions, and on perusal of the complaint, it is seen that there is no specific averments as against the petitioner/A3. Further, it is seen in form No.32 that the petitioner has already resigned from the 1st accused company on 19.04.2000, even before the non filing of returns for the period ending September 2003, March 2004 and September 2004.

8.Hence, this Criminal Original Petition is allowed and the proceedings in C.C.No.3799 of 2006 pending on the file of the II Metropolitan Magistrate Court, Egmore as against the petitioner/A3 alone is quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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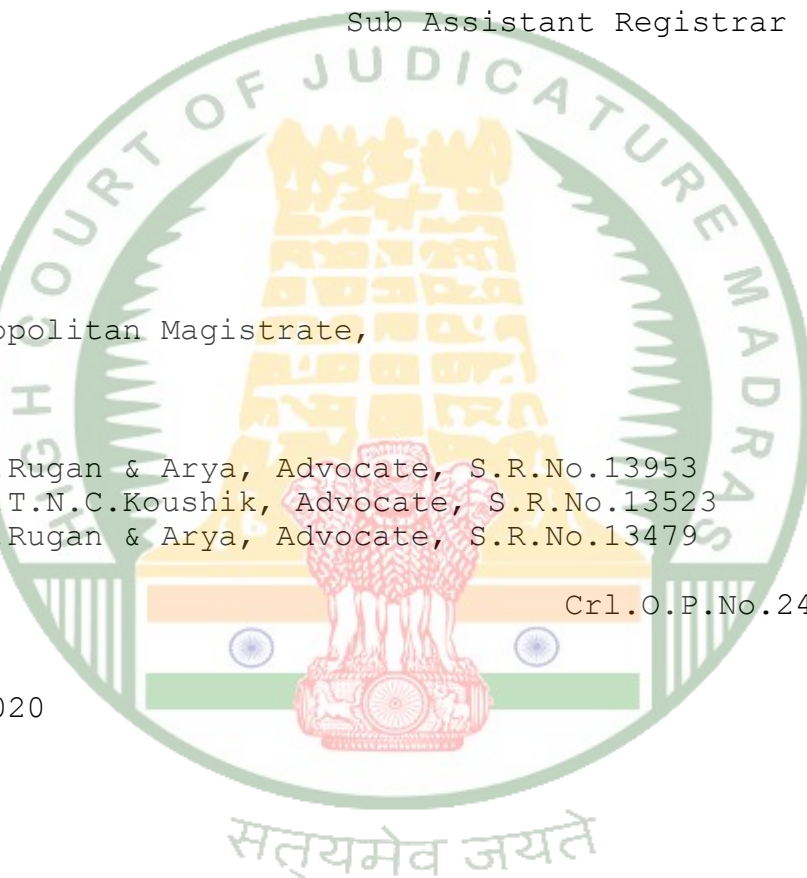
To

The II Metropolitan Magistrate,
Egmore,
Chennai.

+1cc to M/s.Rugan & Arya, Advocate, S.R.No.13953
+1cc to M/s.T.N.C.Koushik, Advocate, S.R.No.13523
+1cc to M/s.Rugan & Arya, Advocate, S.R.No.13479

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RR(CO)
nvi/29.05.2020



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