

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.27124, 27125 & 27126 of 2014
and
Crl.M.P.Nos.1, 1 & 1 of 2014

Dr.J.Sundeeep Anand ... Petitioner in all Crl.O.Ps
Vs.

State by Deputy Director,
(BOCW) (i/c),
Industrial Safety and Health-II,
Kancheepuram @ Chennai - 32. ... Respondent in all Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions are filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.Nos.259, 260 & 261 of 2014 pending on the file of the Chief Judicial Magistrate Court, Chengalpet and quash the same.

In all Crl.O.Ps
For Petitioner : Mr.N.Senthil Kumar
For Respondent : Mr.V.Saradha Devi
Government Advocate [Crl. Side]

COMMON ORDER

Criminal Original Petitions have been filed to quash the proceedings in C.C.Nos.259, 260 & 261 of 2014 pending on the file of the Chief Judicial Magistrate Court, Chengalpet.

2. The case of the prosecution is that on 15.02.2014, the respondent conducted inspection in the construction work carried out by the petitioner in Bharat University, No.173, Agaram Road, Selaiyur, Chennai-600 073 and found the petitioner has violated the following violations of Building and other Construction Workers (Work and Work Conditions Regulation) Act 1996 & Tamil Nadu Construction Rules, 2006:-

(i) The Employer/petitioner had not provided safety net made up with sound material and adequate strength for the safety of the workers and further, he had not provided safety helmets with national standards to the construction workers and hence, the respondent has filed a complaint before the

Chief Judicial Magistrate Court, Chengalpet in C.C.No.259 of 2014 for the offence under Sections 40(1) Rule 179 and 40(1) Rule 46(1).

(ii) Further, the First Aid Boxes with the articles specified in schedule III for the workers employed at construction site, have not been provided and has not kept readily available with a person trained in First-Aid and the petitioner has not maintained a register of building and other construction workers in Form XV under schedule XIII to the rules and was not produced to the Deputy Director Industrial Safety and Health-II, Kancheepuram, Chennai during inspection and hence, the respondent has filed a complaint before the Chief Judicial Magistrate Court, Chengalpet in C.C.No.260 of 2014 for the offence under Section 36 Rule 231 and Section 30 (1) Rule 240.

(iii) Further, the petitioner has not made any application in Form I to the Joint Director IVth, Division Chennai (Registering Officer) for registration of the Construction of College and the petitioner did not send a written notice in Form IV to the Deputy Director Industrial Safety and Health-II, Kancheepuram @ Chennai at least thirty days before the commencement of construction work and the petitioner has not registered the details of the workers working in the construction site and hence, the respondent has filed a complaint before the Chief Judicial Magistrate Court, Chengalpet in C.C.No.261 of 2014 for the offence under Section 7(1)(2) Rule 23(1)(2) and Rule 27(1) and Section 46(1) Rule 25 (3) & 239(1) and Section 10 r/w Section 7.

3. The learned counsel for the petitioner would submit that the petitioner was engaged in construction of building in Bharat University, No.173, Agaram Road, Selaiyur, Chennai, for which he has obtained necessary approval of the plans and specifications and requisite permission from the concerned authority to carry out such constructions. Accordingly, it is submitted that as the construction activities carried on by the petitioner for the purpose of constructing additional building and the petitioner having obtained necessary permission from the concerned authority for carrying out such constructions. He would further submit that the complaint filed by the respondent does not make out a case against the petitioner and the respondent is simply extracted the provisions in the complaint, without any documentary evidence.

4. The learned counsel for the respondent would submit that the points raised by the petitioner are factual in nature and only the trial Court which has to consider the same in the course of proceedings and the grievance of the petitioner is to be decided only at the time of trial.

5.On perusal of the complaint it is seen that the respondent only mentioned the provisions of the Building and other Construction Workers (Work and Work Conditions Regulation) Act 1996 & Tamil Nadu Construction Rules, 2006 and no averments in the complaint and no specific allegation against the petitioner in order to prove the petitioner has violated the said provisions. In the absence of the same, no useful purpose would be served by subjecting the petitioner to the ordeal of the criminal trial. Hence, the continuation of the proceedings will only result in abuse of process of Court.

6.Accordingly, these Criminal Originals Petitions are allowed and the proceedings in C.C.Nos.259, 260 & 261 of 2014 pending on the file of the Chief Judicial Magistrate Court, Chengalpet are quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate Court,
Chengalpet.

2.The Deputy Director,
(BOCW) (i/c),
Industrial Safety and Health-II,
Kancheepuram @ Chennai - 32.

3.The Public Prosecutor,
High Court, Madras. सत्यमेव जयते

+1cc to Mr.N.Senthil Kumar, Advocate SR.No.15505

Cr1.O.P.No.27124, 27125 & 27126 of 2014

MG(CO)
GMY(17/06/2020)

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