

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.30836 of 2019
Cr1.MP.Nos.16740 & 16741 of 2019

Parag M Munot
Managing Director,
M/s. Property Solutions
India Private Limited,
No.73, Kalpataru Square,
7th Floor Office,
Andheri Kurla Road,
Kondivita Lane,
Andheri (E),
Mumbai - 400 059

Now residing at
Munot Villa,
West Field Compound Lane,
63-K, Bhulabhai Desai Road,
Behind Amarson,
Cumballa Hill,
Mumbai - 400 026,
Maharashtra, India.

... Petitioner

Vs.

1. The State Represented by
The Labour Enforcement Officer (Central)
Government of India,
Ministry of Labour and Employment,
Shastri Bhavan, No.26, Haddows Road,
Chennai - 600 006.

2. Rajanikant
Head of Operation,
M/s. Property Solutions
India Private Limited,
No.399/14, 46th Streetm
Off 9th Avenue,
Near Ashok Pillar,
Ashok Nagar,
Chennai - 600 083.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the criminal proceedings in C.C.No.4521 of 2019 on the file of the II Metropolitan Magistrate Court, Egmore, and to quash the same.

For Petitioner : Mr.G.Kalyan Jhabakh

For Respondents : No appearance

O R D E R

This Petition has been filed to quash the proceedings in C.C.No.4521 of 2019 on the file of the II Metropolitan Magistrate Court, Egmore, thereby taken cognizance for the offences under Section 24 of the Contract Labour (Regulation and Abolition) Act 1970, for breach of Rules 81(1)(i), 75 r/w. Rules 80(1), 78(1)(a)(i), 78(1)(a)(iii), 78(1)(b) and Section 79 of IPC, as against the petitioner.

2. The learned counsel appearing for the petitioner submitted that the petitioner is arrayed as first accused, on the complaint lodged by the first respondent before the learned II Metropolitan Magistrate, Egmore, Chennai, and the same has been taken cognizance C.C.No.4521 of 2019, for the offences under Section 24 of the Contract Labour (Regulation and Abolition) Act 1970 for breach of Rules 81(1)(i), 75 r/w. Rules 80(1), 78(1)(a)(i), 78(1)(a)(iii), 78(1)(b) and Section 79 of IPC.

2.1. He further submitted that the petitioner is neither the Managing Director nor the Director of the Company, M/s.Property Solutions India Private Limited and he never involved in the day to day affairs of the company. The complaint itself is not maintainable, since it has been filed under Section 24 of the Contract Labour (Regulations and Abolition) Central Rules, 1971, relating to the offences committed by the petitioner. That apart, the complaint itself does not disclose any specific terms to attract the ingredients of the offences under the Act. The entire allegations are bald and vague and only to harass the petitioner, the present false case has been foisted as against the petitioner. The show cause notice also not served to the petitioner and prayed for quashment of the proceedings initiated as against the petitioner.

3. On perusal of the complaint, the petitioner is arrayed as first accused on the complaint lodged by the first respondent, the learned trial Court has taken cognizance for the offences under Section 24 of the Contract Labour (Regulation and Abolition) Act 1970 for breach of its Rules 81(1)(i), 75 r/w.

Rules 80(1), 78(1)(a)(i), 78(1)(a)(iii), 78(1)(b) and Section 79 of IPC, as against the petitioner. As per the investigation report, the accused persons were requested to rectify the irregularities mentioned in the Inspection Report and also issued show cause notice. On receipt of the same, their Contractor did not submit any reply. Therefore, the first respondent initiated proceeding by way of complaint.

4. According to the petitioner, he was inducted as Director in M/s.Property Solutions India Private Limited and thereafter he was not associated with the company with effect from 12.01.2010 due to resignation. It was duly registered with the Registrar of Company under Form-32. On inspection, the first respondent found the following illegalities in the above said Company :-

"5. Shri. Dr.Ramanand Yadav, Labour Enforcement Officer (Central) Chennai who is an 'Inspector' under the said Act and Rules had jurisdiction over the said establishment inspected on 26.03.2019 at 13.00 hrs, under the provisions of CL(R&A) Act, 1970 and observed the following offences among others :-

01. Penal Section 24 Read With Rule 81 (1)(i):

Failed to display notices containing rates of wages, hours of work, date of payment, wage period & Name and addresses of the Inspectors having jurisdiction, date of payment of unpaid wages in English/Hindi/local language at the workspot.

02. Penal Section 24 R/w Rule 75 r/w rule 80(1) :

Failed to maintain Employee Register in Form A.

03. Penal Section 24 Read With Rule 78 (1)(a)(i) & 78(1)(a)(iii) :-

Failed to maintain register of Wages in Form-B.

04. Penal Section 24 read with Rule 82 (2):

Failed to upload Annual Return for the year ending 2018 in form XIV before 1st February on Sharam Suvidha Web Portal.

05. Penal Section 24 Read With Rule 78 (1)(a)(i) :

Failed to maintain Register of Attendance in Form-D

06. Penal Section 24 Read With Rule 78 (1)(a)(ii) :

Failed to maintain Register of Loan/Recoveries in Form - C

07. Penal Section 24 Read with rule 78 (1) (b) :

Failed to issue wage slips in Form XIX to the workmen at least a day prior to the disbursement of wages although wage period is more than a week.

08. Penal Section 24 Read with Rule 79 :

Failed to display the abstract of the Act & Rules in English/Hindi and in the local language at the establishment."

5. The above illegalities found by the Enforcement Officer on the inspection dated 26.03.2019 and thereafter on 07.06.2019 the show cause notice was issued. Therefore on the date of inspection i.e., on 26.03.2019, the petitioner is not a Director of the company and he did not participate in the day to day affairs of the company. On the date of show cause notice also the petitioner is not a Director of the company. Further on perusal of complaint, there is absolutely no participation of the above said company. Therefore, the entire complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

6. Accordingly, this criminal original petition is allowed and the criminal proceedings in C.C.No.4521 of 2019 pending on the file of the II Metropolitan Magistrate Court, Egmore, is quashed as far as the petitioner is concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

rts

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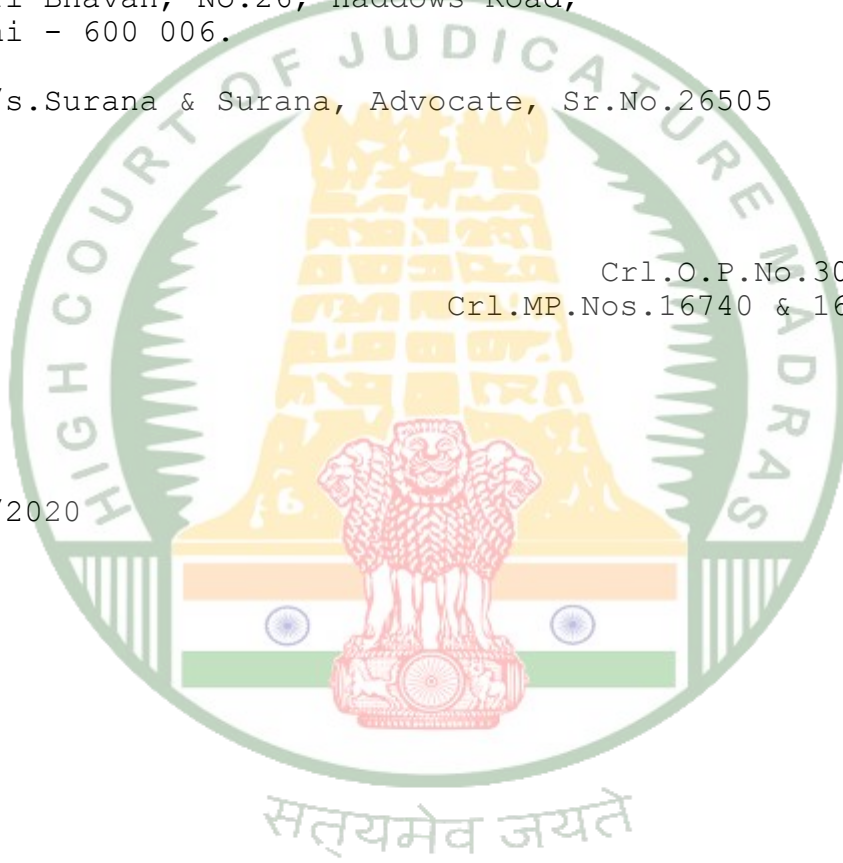
To

1. II Metropolitan Magistrate,
Egmore, Chennai.
2. The Labour Enforcement Officer (Central)
Government of India,
Ministry of Labour and Employment,
Shastri Bhavan, No.26, Haddows Road,
Chennai - 600 006.

+1cc to M/s.Surana & Surana, Advocate, Sr.No.26505

Crl.O.P.No.30836 of 2019
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GMR (CO)
Jas/29/05/2020



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