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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.16359/2016 & Cr1.MP.No.7950/2016

[Video Conferencing]

Mr.Jayaprakash Babu Kodimi
Occupier & Manager
Inergy automotive Systems India Pvt Ltd
[Name changed to Plastic Omnium Auto
Inergy India Private Limited]
Plot No.S-16, 17, 18, Sipcot Industrial
Complex, Phase-III, Mukundarayapuram
Village and Post, Ranipet, Walajapet Taluk
Vellore, Tamil Nadu 632 405.

... Petitioner

Versus

State of Tamil Nadu
rep.by Deputy Director
Occupational Safety and Health
Department-1, TNHB Office,
Sathuvachari, Vellore-9.
[Inspector Industries]

... Respondent

Prayer : - Criminal Original Petition filed u/s.482 of Cr.P.C., to call for the records in CC No.281/2016 pending on the file of the learned Chief Judicial Magistrate, Vellore, Vellore District and quash the same as illegal, arbitrary and against law.

For Petitioner : Ms.G.Roshini
for Mr.S.Santhosh
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



ORDER

(1) Heard Ms.Roshini, learned counsel representing Mr.S.Santhosh, learned counsel for the petitioner on record and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent.

(2) The present petition has been filed seeking interference with the further proceedings in CC.No.281/2016 now pending on the file of the learned Chief Judicial Magistrate, Vellore.

(3) A FIR came to be registered pursuant to the injury being suffered in the factory premises and such FIR was lodged on 04.07.2015 and Crime No.238/2015 had been registered by the SIPCOT Police Station at Vellore, u/s.287 IPC. Thereafter, owing to the said incident, a letter dated 19.07.2015 had been addressed by the petitioner herein to the defacto complainant/Joint Director, Industrial Safety and Health, Division-I, Sathuvachari, Vellore, which has been received by the said Officer on 20.07.2015. Document to that extent, is annexed with the papers filed along with the present petition.

(4) Ms.Roshini, learned counsel appearing for the petitioner placed reliance on Section 106 of the Factories Act, 1948, which deals with the limitation of prosecution. The said provision is extracted below:-

106. Limitation of prosecution.—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

Explanation.—For the purposes of this section— (a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time



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during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.''

- (5) According to the said provision, the Court can take cognizance of an offence punishable under the said Act, only if a complaint is made within three months from the date on which commission of offence had come to the knowledge of the Investigating Authority.
- (6) In this case, as pointed out, the respondent/competent Authority had come to know about that particular incident on 20.07.2015. Naturally, if further proceedings are to be initiated, he should give a complaint within a period of three months before the competent Court, viz., the Chief Judicial Magistrate Court, at Vellore. The said three months would end on or around 20.10.2015. Records, however presented before this Court would show that the complaint had been forwarded to the Court of the Chief Judicial Magistrate only 28/29.12.2015, which is much far beyond the period of three months.
- (7) Mr.E.Raj Thilak, learned Additional Public Prosecutor was also heard on this particular aspect and as a fact, it is seen that the complaint was preferred before the learned Chief Judicial Magistrate, Vellore, only on 28/29.12.2015, which naturally renders the complaint as one which could not have been taken cognizance by the learned Chief Judicial Magistrate. Moreover, the learned Chief Judicial Magistrate, Vellore, had actually taken cognizance on 20.06.2016.
- (8) The complaint is certainly barred by law of limitation or rather, by the provision of Section 106 of the Factories Act, 1948. Naturally, it has to be interfered with.
- (9) In the result, the Criminal Original Petition stands allowed and the proceedings in CC No.281/2016 pending on the file of the learned Chief Judicial Magistrate, Vellore,



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Vellore District, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

AP

To

1.The Chief Judicial Magistrate,
Vellore.

2.Deputy Director
Occupational Safety and Health
Department-1, TNHB Office,
Sathuvachari, Vellore-9.
[Inspector Industries]

3.The Public Prosecutor
High Court , Madras.

+1CC to Mr.S.Santhosh, Advocate, SR.No. 50332

Cr1.OP.No.16359/2016

PL(CO)
B.VC (26/10/2021)