



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 20.10.2021	PRONOUNCED ON 26.10.2021
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THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.OP.NOS.19893 TO 19902/2015 [10 CASES] ;
16518 TO 16535 & 16578 OF 2015 [19 CASES] ;
15045 TO 15059 OF 2015 [15 CASES]
AND 21266 TO 21270 OF 2015 [5 CASES]
& M.P.NOS.1&2 OF 2015

IN

CRL.OP.NOS.16519 TO 16535 & 16578 OF 2015
AND 15046 TO 15049 & 15051 TO 15053 &
15055 TO 15059 OF 2015 AND 21266 TO 21270 OF 2015
AND M.P.NO.1 OF 2015 IN CRL.OP.NO.16518 OF 2015,
15050 & 15054 OF 2015

CRL.OP.NOS.19893 TO 19902 AND 21266 TO 21270/2015

1. Conceria Viriginia Chennai Private Limited,
No.57, Adam Nagar Main Road,
Nagalkeni, Chrompet,
Chennai - 600 044,
Rep. by its Managing Director,
Mohammed Yavan Dhala.



CRL.OP.NOS.16518 TO 16535 & 16578/2015 & 15045 TO 15059/2015

1. Forward Leather Company,
[Formerly known as
M/s.Shamshuddin Exports],
No.7, MGR Nedunchalai,
Nagalkeni, Chrompet,
Chennai - 600 044,
Rep. by its Managing Partner.

2. Mohammed Yavan Dhala

... Petitioners/Accused

Versus

The Enforcement Officer/
Provident Fund Inspector,
Employees' Provident Fund Organization,
Regional Office,
3, Rajaji Salai,
Tambaram,
Chennai - 600 045.

... Respondent/Complainant

COMMON PRAYER:-

Criminal Original Petitions filed under Section 482 Cr.P.C., to call for the records in C.C.Nos.454/2014, 458/2014, 476/2014, 477/2014, 480/2014, 502/2014, 503/2014, 504/2014, 505/2014 and 506/2014 (in Crl.OP.Nos.19893 to 19902 of 2015); C.C.Nos.455/2014, 456/2014, 457/2014, 478/2014 & 479/2014 (in Crl.OP.No.21266 to 21270 of 2015); C.C.Nos.444/2014, 445/2014, 446/2



COMMON ORDER

1. Arguments were advanced with respect to all the above Criminal Original Petitions and both the learned counsels stated that the point involved in all the cases, is similar. This has given rise to the necessity of passing a common order in all the petitions.

2. The petitioners in all the above cases are Companies which are inter-linked with each other. They are manufacturers of full shoes, shoes upper and also own tanneries.

3. In all the cases, the employer/petitioners Companies, employed large number of employees and there was an obligation on their part to pay Provident Fund contribution with respect to their employees.

4. It is claimed that the Companies suffered loss and the properties were also attached by Financial Institutions. The petitioners had also borrowed money and also had overdrawn their accounts. They were all not in a position to even pay salary. They could not pay the Provident Fund dues. The respondent had issued notices to the petitioners to pay contribution for the default period.

5. The petitioners pointed out that they could not pay the amount owing to their properties being attached and owing to the fact that they had suffered economic loss and they had no money to pay.

6. It is complained by the petitioners that however, the respondent continued to pass orders under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, [hereinafter referred as 'the Act, 1952'] claiming contribution to be paid. Since the amounts demanded had not been paid in spite of orders passed under Section 7A of the Act, 1952, the respondent issued Recovery Certificates under Section 8C of the Act, 1952. The respondent also attached the properties of the petitioners.

7. It is claimed that the business operations of the petitioners Companies came to a halt in the year 2012.

8. The respondent then issued Pro



Provident Fund dues. The properties could not be brought for sale since there were no bidders. The respondent, therefore, issued a Show Cause Notice as to why the Managing Director of the petitioners' Companies should not be prosecuted under Section 14 of the Act, 1952. The petitioners then filed an application before this Court questioning the Show Cause Notice.

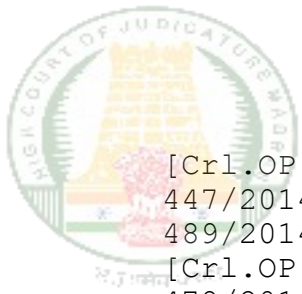
9. However, the respondent had filed complaints before the competent Court under Section 14 of the Act, 1952. The present Criminal Original Petitions have been filed seeking to quash those proceedings.

10. Mr.Harron, learned counsel appearing on behalf of the petitioners stated that the dues payable to the respondent have now been paid and therefore, urged that this Court should quash the criminal prosecution. It is pointed out by the learned counsel that the prosecution had been launched only because the Employees' Provident Fund contribution payable by the petitioners Companies/employers, had not been paid. It has now been paid. It is, therefore stated by the learned counsel for the petitioners that continuation of the criminal prosecution would only be an exercise in futility as the petitioners have paid the amounts. Further, calling upon the petitioners to suffer prosecution is an ordeal which can be prevented by this Court and should be prevented by this Court.

11. Mr.R.Vishnu, learned counsel appearing on behalf of the respondent also stated that the entire dues had been paid. The learned counsel however pointed out that the respondent had been put to loss owing to the institution of criminal prosecutions in the competent Magistrate Courts and also stated that even though the petitioners had now paid the amount, on the date when the complaints were preferred, they had committed the offence under Section 6C read with Section 14[1B]/14A of the Act, 1952. Learned counsel also stated that the petitioners should be called upon to pay compensation under Section 357 Cr.P.C., to the Employees' Provident Fund Organization, owing to the loss suffered by the respondent in proceeding against the petitioners herein and prayed for dismissal of these petitions.

12. I have carefully considered the arguments advanced and also perused the materials placed.

13. The facts are not in dispute. The petitioners herein are manufacturers of leather products and can be termed as ''tanneries''. They employed several employees. There is a continuous obligation to pay the Employees' Provident Fund with respect to



[Crl.OP.Nos.19893 to 19902/2015] ; 444/2014, 445/2014, 446/2014, 447/2014, 448/2014, 468/2014, 469/2014, 470/2014, 488/2014, 489/2014, 466/2014, 467/2014, 490/2014, 491/2014 and 492/2014 [Crl.OP.Nos.15045 to 15059/2015] ; 455/2014, 456/2014, 457/2014, 478/2014 and 479/2014 [Crl.OP.Nos.21266 to 21670/2015] on the file of the learned Judicial Magistrate, Tambaram and STC.Nos.604/2014, 605/2014, 607/2014, 608/2014, 609//2014, 610/2014, 611/2014, 612/2014, 613/2014, 614/2014, 617/2014, 618/2014, 615/2014, 616/2014, 619/2014, 620/2014, 621/2014, 622/2014 and 606/2014 [Crl.OP.Nos.16518 to 16535 & 16578/2015] on the file of the learned Judicial Magistrate No.2, Chengalpattu are hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To