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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. Nos.4189, 4190, 4192 & 4193 of 2017
and
Crl.M.P.Nos. 3099 & 3103 of 2017

Vijay Shah,
S/o. Mr.Kantilal Chhotalal Shah,
Occupier,
Piramal Enterprises Limited,
Ennore Express Highway,
Ennore, Chennai-600 057

...Petitioner in Crl.O.P.Nos. 4189 & 4190 of 2017

P.Kalaiselvan,
S/o. Mr.M.Perumal,
Manager,
Piramal Enterprises Limited,
Ennore Express Highway,
Ennore, Chennai-600 057

...Petitioner in Crl.O.P.Nos. 4192 & 4193 of 2017

Versus

State of Tamil Nadu,
rep. by the Joint Director,
Industrial Safety and Health,
Thiruvottiyur, Chennai-600 019.

...Respondent in all Crl.O.P.s

PRAYER in Crl.O.P.No. 4189 of 2017 : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records connected with C.C.No.1 of 2017 issued by the Hon'ble Chief Judicial Magistrate, Tiruvallur and quash the same.

PRAYER in Crl.O.P.No. 4190 of 2017 : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records summoning order dated 04.01.2017 in C.C.No.1 of 2017 issued by the Hon'ble Chief Judicial Magistrate, Tiruvallur and quash the same.

PRAYER in Crl.O.P.No. 4192 of 2017 : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records connected with C.C.No.2 of 2017 issued by the Hon'ble Chief Judicial Magistrate, Tiruvallur and quash the same.



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PRAYER in Crl.O.P.No. 4193 of 2017 : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records summoning order dated 04.01.2017 in C.C.No.2 of 2017 issued by the Hon'ble Chief Judicial Magistrate, Tiruvallur and quash the same.

For Petitioners in
all Crl.O.P.s

: Mr.M.Karthik Seshadri

For Respondent
in all Crl.O.P.s

: Mr.R.Kishore Kumar,
Govt. Advocate (Crl. Side)

O R D E R

These Criminal Original Petitions have been filed to quash the private complaint filed by the Factory Inspector in C.C. Nos. 1 and 2 of 2017 for violation of Section 7A, Sec.87 of Factories Act, 1948 r/w Section 38(1)(3) and Rule 61(8) and Sec.7A, Sec.87 of the Factories Act, 1948 r/w rule 95, Schedule XXXI Sub-rule 6 and 8 r/w Sec.38(1)(3) and Rule 61(4) on the file of the Chief Judicial Magistrate, Thiruvallur.

2. Brief contentions of the prosecution case is that one Factory Inspector inspected the premises, and alleged that the employer has not taken sufficient care to arrest the chemical adulteration, which resulted in a fire accident while the worker attempted to smoke and two persons were injured, thereby the complaint has been filed.

3. Mr.M.Karthik Seshadri, learned counsel appearing for petitioners would submit that they have given proper reply and in fact, workers themselves have committed the violation. Despite best efforts of the occupier or employer to prevent all matchbox and tobacco products inside the factory premises, the workers somehow or other made attempt to smoke inside the factory premises, which led to fire accident. Hence, it is his contention that under Sec.111 of Factories Act, workers alone put to be liable for violating the norms. Therefore, he has submitted that the occupier cannot be prosecuted.

3. Heard both sides and perused the records.

4. The averments made in the complaint indicates that there is a violation by the occupier. Admittedly, there was a fire accident. The very complaint itself also clearly indicates that workers while trying to smoke inside the factory premises, there was a fire accident. Therefore, the accident is the result of attempt made by the worker when lighting of matchbox while attempting to smoke in the factory premises. But, the fact



remains, the charges targetted against employer for not preventing any such articles inside the factory. Therefore, this Court is of the view that only the Trial Court has to see whether the petitioners herein have taken all precautionary measures to prevent any such accident. Though the entire fire accident took place due to the attitude of workers while attempting to smoke, the Trial Court has to take into consideration of Sec.111 of Factories Act in this regard and decide the issue expeditiously. At any rate, this Court is not inclined to quash the proceedings initiated in C.C.Nos. 1 and 2 of 2017 on the file of Chief Judicial Magistrate, Tiruvallur. However, the Trial Court is directed to take into consideration of Sec.111 of Factories Act and decide the issue expeditiously, and the personal appearance of the petitioners are dispensed with except for answering charges, receiving copies and questioning under Sec.313 and any other circumstances, the court below may require their presence. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate,
Tiruvallur.

2.The Joint Director,
State of Tamil Nadu,
Industrial Safety and Health,
Thiruvottiyur, Chennai-600 019.

3.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.H.Karthik Seshadri, Advocate SR. No.65250

CrI. O.P. Nos.4189, 4190, 4192 & 4193 of 2017
and
CrI.M.P.Nos. 3099 & 3103 of 2017

VGII (CO)
PR (04/01/2022)