



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Cr1.O.P. No.3575 of 2017

M/s. Prakash Industries Limited,
Near I.O.C.L. Depot,
Najafgarh - Bijwasan Road,
Bijwasan, New Delhi - 110 061,
represented by its authorized representative
Mr.M.H. Subrahmanyam,
S/o. Mr. Mahadeva Iyer,
having representative office at:
Flat No.5, Sudha Complex,
203, MGR Road, Nanganallur,
Chennai - 600 061.

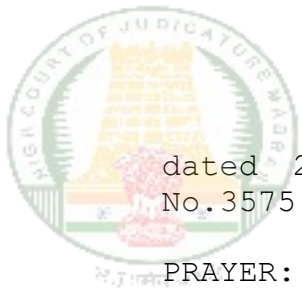
...Petitioner

Vs.

1. Union of Puducherry ref by its
Superintendent of Police, Puducherry.
2. M/s. PL Haulwel Trailers,
(A Division of Automotive Coaches and
Components Limited), having its Regd. Office,
at: C1 & D6, Sipcot Industrial Complex,
Gummidipoondi - 601 201 and
represented by its Managing Director,
Mr. Anand Singh, having its works at:
17-19, Sedarapet Industrial Area,
Sedarapet, Puducherry - 605 111.
3. PL Haulwel Trailers Labour Union
(Affiliated to AICCTU), Regd. No.576/RTU/87,
Represented by its President, Mr. S. Balasubramaniam,
Old No.16/2, New No.22, III Cross Street,
Sithankudi, Puducherry - 13.
4. PL Haulwel Trailers Workers Union,
(Affiliated to NR Congress Labour Union),
Represented by its President, Mr. Anbu,
No.8/3, 2nd Street, Amaithi Nagar,
Kurumbanpet, Puducherry - 9.

... Respondents

(Impleaded 3 & 4 respondents as per the order of this Court



dated 27.04.2017 in CrI. M.P. No.6136 of 2017 in CrI. Op. No.3575 of 2017)

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to issue suitable directions to the 1st respondent to provide necessary protection to the petitioner when approached to remove the 6 Nos. 28 Cu. m. Triple Axle Tipping Trailers being balance to be supplied against Purchase order No.PIL/HO/2014 dated 20.12.2014 from the unit of the 2nd respondent.

For Petitioner : Mr. B.K. Singh

For Respondent-1 : Mr.Bharath Chakaravarthi
(Public Prosecutor- Pondy)

For Respondent-2 : Mrs. Ramapriya Gopalakrishnan

For Respondent-3&4 : Mr.V.Prakash (Senior Advocate)

O R D E R

This Criminal Original petition has been filed under Section 482 Cr.P.C. seeking for to issue suitable directions to the 1st respondent to provide necessary protection to the petitioner when approached to remove the 6 Nos. 28 Cu. m. Triple Axle Tipping Trailers being balance to be supplied against Purchase order No.PIL/HO/2014 dated 20.12.2014 from the unit of the 2nd respondent.

2. The learned counsel for the petitioner would submit that the petitioner is a Limited Company incorporated under the Indian Companies Act, with Certificate of Incorporation having been issued by the Registrar of Companies, Delhi and Haryana on 31.07.1980. The Company was originally incorporated as Prakash Pipes and Industries Limited and subsequently, in the year 1990 was changed to Prakash Industries Limited by which name the Company stands today. That Company had placed an order on the 2nd respondent for supply of 80 Nos. 28 Cu.m Triple Axle Tipping Trailers vide their Purchase Order No.PIL/HO/2014 dated 20.12.2014 for a total value of Rs.11 Crores, which amount was paid in total as advance while placing of the order. The Trailers have been procured from the 2nd respondent for the petitioners own operation and movement of Iron Ore and Coal from their own Coal Mines in and around Chattisgarh State. The 2nd respondent has effected supply of 74 Nos. of the Tipping Trailers and they have failed to supply the balance of 6 Nos.



Trailers valuing about Rs.80,92,026/- till date.

3. It has been further submitted that they have been pursuing with the 2nd respondent regularly for the supply of the balance 6 Nos. of Trailers. It is understood from the 2nd respondent that the Balance of the Trailers are kept ready in their unit and that the unit is permanently closed due to financial crunch because of which the management has given notice on 29.12.2015 to the authorities concerned and the permanent workers and therefore any attempt to remove the trailers now is foiled by the workers who have laid seizure to the unit. While being so, the 2nd respondent further informed to the petitioner that they will be able to supply the Trailers if the petitioner is able to obtain a Direction from the Hon'ble High Court in this connection to the 1st respondent to provide necessary protection to them and the petitioner as well as the Trailers while the same is removed from the factory premises as they apprehend fear that the workers may create mischief. Thereafter, the petitioner had accordingly approached the Sedarapet Police Station on 05.01.2017 with a written request to provide necessary assistance in removing the Trailers from the unit of the 2nd respondent. The Station Incharge had after hearing the petitioner and perusing the written application informed the petitioner that he apprehends fear that there may be a law and order problem if the petitioner along with supplier directly go to the unit for removing the material and since the matter being Civil in nature, it would be easy for him if a Court order is obtained as a Direction to him. The petitioner had sent a representation to the 1st respondent requesting him to direct the Inspector of Police, Sedarapet Police Station, to provide necessary police protection to the petitioner when he attempts to remove the material from the unit. However, the 1st respondent has been silent to remove the Trailer over the request of the petitioner herein. Under such circumstances, the petitioner is left with no other alternative remedy except to seek before this Court invoking inherent jurisdiction under Section 482 of Cr.P.C for appropriate direction in the matter. Further, the respondents 3 and 4 are concerned to Trade Union who are creating trouble in the factory area to remove the materials who have been impleaded as respondents herein to seek their views before passing the necessary direction.

4. On the other hand, the learned Public Prosecutor (Pondy) appearing for the 1st respondent would submit that they could not proceed further in this matter since the matter is pending before the NCLT. The said company is under the liquidation in M.A.No.1262 of 2019 by its order dated 27.11.2019. Further, the petitioner may approach the NCLT, for further direction to take delivery of the said material.



However, so far there is no order received from NCLT for moving the Trailer to the petitioner site. Hence, this Court may be pleased to pass appropriate direction to NCLT in this regard.

5. The learned senior Counsel appearing for the Respondents 3 & 4 would submit that after passing the resolution plan, they will work out the issue for clearing the material from the site.

6. Heard, the learned counsel for the petitioner and the respondents as well as perused the material available on record.

7. In view of the aforesaid submissions made by the learned Government Advocate (Pondy) for the 1st respondent and the learned Senior Counsel appearing for the respondents 3 & 4, the petitioner is directed to approach the NCLT for appropriate direction to take delivery of the material from the site of the 2nd respondent herein and for passing resolution plan to work out the remedy on behalf of the Trade Unions.

8. In the result, this Criminal Original Petition stands closed. Consequently, connected miscellaneous petition is closed if any.

Sd/-

Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar

lbm

To:

1. The Superintendent of Police,
Union of Puducherry.
2. The Public Prosecutor,
Puducherry

Copy to :

The Section Officer,
Criminal Side Record,
High Court, Madras.

CrI.O.P. No.3575 of 2017

NR (CO)

K.RK. (27.09.2021)