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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22/12/2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.26712 of 2017

a n d

CrI.M.P.Nos.15378, 15379 of 2017, 4163 and 4164 of 2018

1. M/s. Pavans Hall Mark Testing Unit
37 Veerappan Street
Sowcarpet
Chennai 600 079.
2. Dhilip Kumar
Proprietor
37 Veerappan Street
Sowcarpet
Chennai 600 079.

...Petitioners

Vs

Bureau of Indian Standards
rep. By its Scientist - C
Mr.M.Pradeep Kumar
P.B.No.8290, CIT Campus
4th Cross Road
Taramani
Chennai 600 113.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.7921 of 2017, pending on the file of the learned XXVIII MM Court, Saidapet, Chennai.

For Petitioners ... Mr.R.Ravi

For Respondent ... Mr.C.D.Johnson
for Mr.P.Suresh Babu

O R D E R

This Criminal Original Petition has been filed to quash C.C.No.7921 of 2017, pending on the file of the learned XXVIII Metropolitan Magistrate Court, Saidapet, Chennai.



2.The case of the prosecution is that petitioners are doing Hall Marking of gold jewellery/Artefacts. On 11/4/2017, Inspection Officers of the respondent, entered into Hall Marking Centre and seized gold jewels, vide, Seizure Memo, stating that the petitioners were carrying on Hallmarking activity without license, which is a violation under the Bureau of Indian Standard Rules. The gold jewellery seized by the respondent belonged to some other person, which were already hallmarked and presented only for laser marking. But the respondent refused to renew the license on the strength of the alleged seizure of gold jewellery.

3. Challenging the same, the petitioners have filed Writ Petition in W.P.No.20849 of 2017, to quash the Proceedings of the respondent, dated 25/5/2017 and direct the respondent to process the application for granting of recognition for Hall Marking of Gold Jewellery/Artefacts, forwarded by the petitioners.

4.Vide, order, dated 4/9/2017, this Court had set aside the proceeding of the respondent and directed the respondent to consider the application submitted by the petitioners for grant of license, afresh taking into consideration the reply submitted by them.

5.Heard Mr.R.Ravi, learned counsel appearing for the petitioners and Mr.C.D.Johnson, learned counsel for the respondent.

6.At the outset, I am unable to persuade myself to the submissions made by the learned counsel appearing for the petitioners, for the simple reason that the factum of seizure is not in dispute. The main contention of the learned counsel appearing for the petitioners is that the petitioners gave a detailed explanation that the jewels belonging to M/s.Khazanchi Jewellers Private Ltd., were never brought for hall marking as they were never received by the petitioners. But according to the respondent, the petitioners were involved in hall marking of gold jewels, without valid BIS recognition and therefore, the same is in violation of Section 11 (1) of BIS Act, 1986.

7.Merely, because the writ petition was allowed, C.C.No.7921 of 2017, pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, cannot be quashed. The issue involved is whether the petitioners are in possession of the gold jewellery seized by the respondent and violated Section 11 (1) of BIS Act, 1986 or not. These are all the issues have to be established before the trial Court.



8. In the result, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mvs

To

1. XXVIII MM Court, Saidapet, Chennai.
2. Do Thro Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Suresh Babu, Advocate, S.R.No.69196

Cr1. O.P. No.26712 of 2017

BS (CO)
RGA(19/01/2022)