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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.19608 of 2017

and

Crl.M.P.Nos.11828 & 11829 of 2017

Rehan Khan
Former Managing Director,
Abbott India Ltd.
No.147, Greams Road, III Floor,
Chennai - 600 006.

... Petitioner/Accused

Vs.

State of Tamil Nadu
Represented by
Asst. Labour Commissioner
Chennai - 35.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.1941 of 2015 on the file of the II Metropolitan Magistrate, Egmore, and quash the same.

For Petitioner : Mr.M.Vijayan
for M/s.King and Partridge

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to quash the complaint in C.C.No.1941 of 2015 pending on the file of the II Metropolitan Magistrate, Egmore, filed for violating certain procedures in not maintaining the Books properly, which is punishable under Section 9 of the Sales Promotion Employees (Conditions of Service) Act, 1976.

2.The punishment provided for such violation is a fine, which may extend to Rs.1,000/-. It is the contention of the learned counsel appearing for the petitioner that the complaint has been filed beyond the period of the limitation of six



months, therefore, the Court cannot take cognizance of the complaint made beyond the period of limitation.

3. Heard the learned counsel for the petitioner and Mr. S. Vinoth Kumar, learned Government Advocate (Crl. Side), appearing for the respondent, and perused the materials available on record.

4. As rightly pointed out by the learned counsel appearing for the petitioner, the alleged violation attracts punishment of fine only. Section 11 of the Act reads as follows:

"11. Cognizance of offence.-(1) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence under this Act, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

5. Sub-Clause (2) of Clause 11 makes it clear that the Court cannot take cognizance of the offence, if the complaint is made beyond the period of six months from the date on which the offence is alleged to have been committed. The very complaint itself indicates that, inspection was conducted on 29.10.2014 and the alleged offence is stated to have been deducted on that day. Therefore, the complaint ought to have been filed within a period of six months, whereas, in this case, the complaint has been filed on 25.05.2015, i.e., beyond the period of six months, which is expressly barred by limitation. So, the Court cannot take cognizance of the same.

6. In such view of the matter, when the Statute itself bars the Court from taking cognizance after a period of six months from the date of alleged occurrence, such complaint is not maintainable and the same is liable to be quashed.

7. Therefore, this Criminal Original Petition is allowed and the proceedings in C.C.No.1941 of 2015 is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



psa/mkn

To

1. The II Metropolitan Magistrate,
Egmore, Chennai.
2. -Do thro The Judicial Magistrate,
Egmore Chennai.
3. The Assistant Labour Commissioner,
Chennai - 35.
4. The Public Prosecutor,
High Court, Madras.

+2cc to M/s.King and Partridge, Advocate, S.R.No.60520

Crl.O.P.No.19608 of 2017

BS (CO)
CT 08/12/2021