

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 201 OF 2022

Indranil Anandamohan Chaterjee	...	Applicant
Versus		
State of Maharashtra	...	Respondent

Mr. Satyajeeet Joshi a/w Mr. L. S. Gaikwad, Mr. N. H. Tarade and Mr. C. A. Joshi for the Applicant.

Mr. J. P. Yagnik, APP for the Respondent-State.

**CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.**

DATE : 19th JULY, 2023

Order (Per Nitin W. Sambre, J.) :-

. The prayer is for quashing of the complaint registered against the applicant for an offence punishable under Sections 36(2)(a), 36(2)(b), 105, 106 and 92 of the Factories Act, 1948 and Rule 115(1) and 115(2) of the Maharashtra Factories Rules, 1963.

2. The genesis of the allegation against the applicant are Dyneshwar Jadhav and Namdev Pawar, contract workers who were given duty to clean the effluent tank, died of smothering while removing/withdrawing slurry from the said tank.

3. It is claimed that the aforesaid act on the part of the applicant amounts to an offence and as such, a complaint came to be lodged with 29th Metropolitan Magistrate, Dadar, Mumbai.

4. While questioning the aforesaid proceedings, the counsel for the applicant-accused would urge that the proceedings at the behest of the respondent-complainant against the applicant are not maintainable as the proceedings should have been initiated within period of three months as provided under Section 106 of the Factories Act, 1948. According to him, the initiation of the proceedings after the expiry of three months from the date of the knowledge, are not sustainable as the said provisions viz the initiation of prosecution by filing complaint within the period of three months is held to be mandatory.

5. As against above, the learned APP Mr. Yagnik, would urge that the applicant was duty bound to submit a return in Form 24 and such return was submitted by the applicant on 21st December 2019 as against the accident occurred on 16th December 2019. According to Mr. Yagnik, its an admitted position that the period of three months is provided/prescribed under Section 106 of the Factories Act for initiating prosecution. He would also consent that the prosecution was initiated against the applicant after the expiry of period of three months from the date of the knowledge to the respondent-complainant as the alleged knowledge of the offence is claimed to be on 21st December 2019 whereas complaint is allegedly filed on 3rd July 2020. According to Mr. Yagnik, after the submission of Form 24 in which the details of the applicant was not disclosed, the spot inspection was carried by the competent authority on 10th January 2020. As such, he would urge that it is within period of three months from 10th January 2020 the prosecution could have been initiated. Mr. Yagnik, would invite

attention of this Court to the order passed by the Apex Court in *Suo Moto Writ Petition (Civil) No(s). 3 of 2020* in re: cognizance for extension of limitation on 23rd March 2020, thereby submitting that the limitation prescribed in all the Acts was extended by virtue of the said order. The said order reads thus:

“ This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in four weeks.”

6. As such, Mr. Yagnik, learned APP, submits that the proceedings initiated against the applicant has to be construed well within the time and prayer for quashing is liable to be rejected.

7. We have appreciated these submissions.

8. The fact remains that the Section 106 of the Factories Act provides for a limitation of three months for initiation of prosecution

from the date of knowledge of the accident to the competent authority.

9. In the case in hand, though the Form 24 was submitted by the applicant, however, since the said form does not disclose the entire details of the employer, subsequent thereto spot inspection was carried out by the competent authority on 10th January 2020. In this backdrop, the knowledge of the authority has to be construed from 10th January 2020 and the period of limitation is to be reckoned from the said point for a period of three months.

10. The order of the Apex Court in the suo moto Writ petition (Civil) No(s). 3 of 2020 (supra) delivered on 23rd March 2020 is worth referring to. The Apex Court while dealing with the social situation as was existing at the relevant time was pleased to extend the limitation prescribed under all the general or special laws by a judicial order. The extension by virtue of said order as regards the limitation was till further orders from 15th March 2020. The said order was passed by the Apex Court in exercise of powers under Article 142 read with Article 141 of the Constitution.

11. As such, the extension ordered by the Apex Court *qua* the limitation prescribed under all the special and general Act squarely covers the limitation which is prescribed under the Factories Act also. The limitation for initiation of prosecution under the Factories Act particularly under Section 106, as such, stood extended and that being so, it cannot be said that the prosecution initiated against the applicant vide complaint dated 3rd July 2020 can be said to be beyond the

limitation and contrary to the provisions of Section 106 of the Factories Act. In this background, we are of the view that the prosecution initiated against the applicant under the Factories Act is well within the limitation.

12. In view of above observations, no case for causing interference is made out. The application, as such, stands dismissed.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]

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