



Crl.O.P.No.22211 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.22211 of 2021

and

Crl.M.P.No.12061 of 2021

Mr.Chinnaduraikannan

... Petitioner

/vs/

Deputy Director-II (Factory Inspector)
Industrial Safety and Health
SF No.47/1, Block No.6,
Thiruvika Industrial Estate,
Guindy, Chennai 600 032

... Respondents

Prayer : Criminal Original Petition has been filed under section 482 of Cr.P.C. to call for the entire records in connection with C.C.No.184 of 2020 on the file of Chief Judicial Magistrate, Thiruvallur and quash the same.

For petitioner ... Mr. S.Venkatesan

For Respondent ... Mr. L. Baskaran,
Government Advocate (crl.side)



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.184 of 2020 on the file of the Chief Judicial Magistrate, Thiruvallur.

2. The learned counsel for the petitioner submitted that in view of Section 41(c) of Factories Act, only the occupier is responsible for any violation of the factory conditions. The penal provision under Section 92 authorized only the occupier of the factory at the time of inspection. This petitioner M.Chinnaduraikannan is neither occupier nor incharge of the management of the factory. Therefore, it has to be quashed.

3. The learned Government Advocate (crl.side) appearing for the respondent submitted that admittedly, the factory was inspected on 19.08.2020. At the time of inspection, they found the previous Director Rajasingh and T.Nathan, Manager passed away and the name of the petitioner is mentioned as Director and occupier of the factory. Since the learned counsel for the petitioner disputed the occupier and manager of the factory, it has to be adjudicated before the Trial Court, hence, it cannot be quashed invoking under Section 482 of Cr.P.C.



4. I have considered the rival submissions made by the learned counsel for both sides and perused the materials available on records carefully.

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5. On perusal of the records, it reveals that the respondent inspected the factory, viz., Vaibhav Mercantile Limited on 19.08.2020 and found some violations. Hence, prosecuted the petitioner as Occupier and Manager of the factory under Sections 2(CB) Schedule I, Item 3 Section 7(A)(iii) and Section 41(c) and Section 112 Rule 62(O)(i)(b) of Factories Act 1948. Now, it is challenged that the petitioner is not occupier nor manager at the time of inspection conducted by the departmental officials. Whether the petitioner was Occupier or Director or Manager of that factory at that time of inspection being a question of fact. It has to be adjudicated by the Trial Court after considering the evidence produced before that Court. Question of fact cannot be adjudicated before this Court while exercising powers under Section 482 of Cr.P.C. It does not meet the parameters laid down by the Hon'ble Supreme Court in the following cases:

(i) R.P.Kapur Vs. The State of Punjab* reported in *AIR 1960 SC 866

(ii) State of Haryana & Ors. Vs. Ch.Bhajan Lal & Ors.* reported in *AIR 1992 SC 604



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(iii) *M/s.Neeharika Infrastructure Pvt. Limited Vs. State of*

Maharashtra & Ors. reported in 2021 SCC Online SC 315

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Hence, I find no reason to quash the criminal proceedings and I find no merit in the criminal original petition and this Criminal Original Petition is not maintainable and the same is liable to be dismissed.

6. Accordingly, this Criminal Original Petition is dismissed. The petitioner is permitted to raise all his defence before the Trial Court whether the petitioner was Occupier or Director or Manager of the factory at the time of inspection conducted by the factory officials. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

Internet: Yes/No

mrp

07.08.2023

To

The Chief Judicial Magistrate,

Thiruvallur.



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V.SIVAGNANAM, J.

mrp

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