



Crl.O.P No.28483 of ----

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P Nos.28483 of 2019
and Crl.M.P. No.15194 & 15195 of 2019

Sanjeev Hiremath

... Petitioner

Vs.

Government of Tamil Nadu
Rep. by its Inspector of Factories,
Hosur.

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in S.T.C. No.26/2014 pending on the file of the Chief Judicial Magistrate in Krishnagiri and quash the same.

For Petitioner : Mr.S.Ramasubramanian

For Respondent : Mr. A.Gopinath
Government Advocate (crl.side)



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Crl.O.P No.28483 of ----

ORDER

This petition has been filed to call for the records in S.T.C. No.26/2014 pending on the file of the Chief Judicial Magistrate in Krishnagiri and quash the same.

2. The petitioner is a sole accused in a private complaint given by the respondent / Inspector of Factories, Hosur for the alleged offence committed by the petitioner punishable under Section 92 of the Factories Act, 1948.

3. The case of the prosecution as seen from the complaint is that on 28.10.2011 a workman of the company by name R.G.Umasekar (Employee Code-152) was doing packing line startup activity; while arranging the Band sealer machine, he tried to provide side support using cardboard to the outlet of the band sealer chute and while sticking the partitions between the sealer and chute with the cardboard, the said workman's right hand's little finger got in contact between the running bewel gears and he got injured and due to which the tip of his little finger got cut in the accident; 'Form-18' report was sent by the petitioner's company on 29.10.2011 immediately after the accident to the Deputy Chief Inspector of Factories, Hosur and the same was received



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by the Department on 31.10.2011; on 31.01.2012 inspection was made by the Deputy Chief Inspector of Factories, Hosur, and show cause notice was sent on the same day itself; after having complied all the formalities, the complaint was filed before the Court on 10.04.2012 and later got represented on 29.04.2012 and the same was taken on file in S.T.C. No.26 of 2014 and summon was issued to the petitioner.

4. The learned counsel appearing for the petitioner submitted that the petitioner had sent 'Form-18' as early as on 29.10.2011 and that has been received by the department on 31.10.2011; so the knowledge of the accused was acquired by the department officials on 31.10.2011 itself, but the complaint has been preferred only on 10.04.2012 which is beyond the period of three months as contemplated under Section 106 of the Factories Act, 1948; since the complaint itself is barred by limitation and no acceptable reason has been stated for representing the complaint after three long years, the complaint is liable to be quashed; the undue delay in preferring the complaint coupled with delay would prejudice the interest of the petitioner who had already retired from service and further the workman was also compensated for the injury sustained by him; as the time ticked away and that



changed the circumstances, the Court has to quash the proceedings by exercising its discretion.

5. The learned Government Advocate (Crl.side) submitted that as per the judgment of the Hon'ble Supreme Court held in ***P.D.Jambekar Vs. The State of Gujarat*** reported in ***AIR 1973 SC 309*** as per Section 106 of Factories Act, the starting point of the period of limitation should be from the date of enquiring the accident and does not constitute to have acquired the knowledge from the report; since the Deputy Chief Inspector of Factories had started enquiry on 31.01.2012 and the complaint had been preferred on 10.04.2012, the complaint is well within the period of limitation; a Criminal Original Petition in Crl.O.P. 4906 of 2015 has been preferred before this Court by challenging the complaint on the point of limitation and later it was dismissed as withdrawn; further by raising the same point of limitation the petitioner has filed a Criminal Miscellaneous Petition in Crl.M.P. No.243 of 2016 and the same was also dismissed by the learned trial Judge. The said order has not been challenged by the petitioner.



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6. Despite the learned Government Advocate raised the point of limitation, it appears that on the very same ground, an earlier petition in Crl.O.P. No.4906 of 2015 was filed and later it was withdrawn with a liberty to put forth all the issues before trial Court. Subsequently, a petition filed for discharge on the same ground was also dismissed by virtue of the order of the Chief Judicial magistrate dated 10.07.2019. As rightly pointed out by the Government Advocate, the petitioner had not challenged the said order however, he has filed a petition to quash the proceedings by taking into account of 951 days of delay in representing the complaint which was returned on 10.04.2012.

7. The records would show that for the purpose of saving limitation, the complaint has been presented in the Court on 10.04.2012 and later it was kept idle without representation for more than three years. Even thereafter, the complaint is kept pending for so many years and in the interregnum the petitioner's company had also paid compensation to the injured employee. Though payment of compensation alone will not absolve the criminal liability on the petitioner, the inordinate delay in the proceedings would cause prejudice to him.



Crl.O.P No.28483 of ----

8. It is submitted that the petitioner is already retired from service.

Keeping this criminal proceeding against him would only amount to escalating his mental agony for an incident which had taken place as early as in the year 2011. Though delay cannot be a main ground to quash the proceedings, the other circumstances coupled with delay can be taken into consideration to serve the ends of justice. Hence, I feel it is appropriate to invoke the powers of this Court under Section 482 Cr.P.C. to quash the proceedings.

9. In view of the above stated reasons, this Criminal Original Petition is allowed and the proceedings in S.T.C. No.26/2014 on the file of the Chief Judicial Magistrate, Krishnagiri is quashed. Connected miscellaneous petitions are closed.

06.01.2023

Index : Yes/No
Speaking Order : Yes / No
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Crl.O.P No.28483 of ----

To:

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1. The Inspector of Factories,
Hosur.
2. The Public Prosecutor,
High Court, Madras.



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Crl.O.P No.28483 of ----

R.N.MANJULA, J.,

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Crl.O.P No.28483 of 2019

06.01.2023