



WEB COPY



Crl.O.P.No.25137 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25137 of 2023

and

Crl.M.P.Nos.17428 & 17429 of 2023

1.M/s.Rangaswamy College of Education,
Represented by Prof.Dr.R.Ramanujan, Chairman & MG Trustee,
M/s.Rangaswamy Anjalai Trust,
Senthil Nagar, Thirumullaivoil,
Chennai-600 062.

2.Prof. Dr.R.Ramanujam,
S/o.Mr.Rangasamy,
Chairman & MG Trustee,
M/s.Rangaswamy Anjalai Trust,
Senthil Nagar, Thirumullaivoil,
Chennai-600 062.

... Petitioners

Vs.

Employees' State Insurance Corporation,
No.143, Sterling Road, Chennai-600 034
Represented by Social Security Officer (Legal),
Regional Officer, ESI Corporation,
Chennai-600 034.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records pertaining to C.C.No.3340 of 2023, on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and quash the same.



Crl.O.P.No.25137 of 2023

For Petitioners : Mr.P.Balamurugan

For Respondent : Mr.K.Prabakaran

ORDER

The petitioner herein is an accused in C.C.No.3340 of 2023 initiated by the ESI Corporation as a private complaint for the offence under Section 85(i)(b) of the ESI Act, for failure of paying the contribution, the prosecution has been launched.

2. According to the petitioner, his organisation will not fall under the scope and ambit of the ESI Act and therefore, the prosecution cannot sustain.

3. The learned counsel appearing for the ESI corporation submits that the petitioner is running an educational institution in the name of M/s.Rangaswamy Anjalai Trust, wherein more than 10 to 14 persons were employed in the organisation at different point of time and therefore, show cause notice was issued to the petitioner's organisation for which there was no reply and thereafter being satisfied, sanction for prosecution was



WEB COPY



Crl.O.P.No.25137 of 2023

obtained and complaint has been laid before the Labour Court, Chennai and same was taken on file in C.C.No.3340 of 2023. Now the case is posted for Section 313 Cr.P.C., questioning after examination of the complainant side witnesses. Since the petitioner did not attend the Court, NBW was issued on 06.10.2023. At this juncture, the petition is filed to quash the proceedings without any basis, hence dismiss the petition.

4. Records perused. The contention of the petitioner is that his organisation does not fall within the scope and ambit of the ESI Act and never been disrupted by the complainant when the opportunity was given to him to cause reply notice. Now after examination of the prosecution witnesses, presently he is taken before the High Court in a quash petition. This is a matter of fact which has to be decided in the trial Court and without any basis new defence been taken in the quash petition.

5. This facts cannot be determined summarily by the High Court. More so, the trial of the case is in the midway. The petitioner has every opportunity to put forth his defence before the trial Court. Hence this Criminal Original Petition is dismissed as devoid of merits. Consequently,



WEB COPY



Crl.O.P.No.25137 of 2023

Dr.G.JAYACHANDRAN, J.

rpl

the connected Criminal Miscellaneous Petitions are also dismissed.

08.11.2023

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

The II Metropolitan Magistrate, Egmore, Chennai

Crl.O.P.No.25137 of 2023