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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P Nos.3427, 3573, 3635, 4181 and 4186 of 2024
and CRL.M.P Nos.2631, 2686, 2558, 3097 & 3099 of 2024

O.C.Vipin Chacko

...Petitioner
in all Crl.O.Ps

Vs.

State Rep. by:
Deputy Director,
Industrial Safety and Health,
No.6/11 & 6/12, Lal Bahadur Sastri Street,
II Floor, Periyakuppam,
Tiruvallur 602 001.

...Respondent
in all Crl.O.Ps

COMMON PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the complaint in C.C.Nos.556, 554, 558, 555 and 557 of 2023 respectively, on the file of the Chief Judicial Magistrate, Tiruvallur.

For Petitioner : Ms.C.Ranjani
in all Crl.O.Ps

For Respondents : Mr.A.Damodaran
in all Crl.O.Ps Additional Public Prosecutor



COMMON ORDER

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Considering the limited issue that is involved in all these petitions, the main petitions are taken up for final hearing.

2.The petitioner in all these criminal original petitions is the Occupier-cum-Manager of the factory. He has challenged the proceedings initiated by the respondent in C.C.Nos.556, 554, 558, 555 and 557 of 2023 respectively, in these petitions.

3.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

4.The specific case of the respondent is that they had inspected the factory premises and had identified certain contraventions/irregularities and accordingly, issued Show Cause Notice to the petitioner pointing out to all those contraventions. On receipt of this Show Cause Notice, the petitioner has given a reply by addressing to each of the contravention that was pointed out by the respondent.

5.The respondent has proceeded to issue a letter dated 25.04.2023 to the



petitioner by stating that a Show Cause Notice was issued and that no reply has been received from the petitioner and therefore, suitable action is being initiated against the petitioner. Accordingly, the impugned complaint has been filed against the petitioner for the alleged contravention committed by the petitioner.

6.All the above complaints suffer from non-application of mind. It is an admitted case of the respondent that a Show Cause Notice was issued to the petitioner and the petitioner had also given reply for the Show Cause Notice. While so, a letter is subsequently issued as if no reply was received from the petitioner for the Show Cause Notice. Surprisingly, even in the reference to that letter dated 25.04.2023, Reference No.2 talks about the reply given by the petitioner. Even in the complaint, one of the enclosure is the reply given by the petitioner. While that being so, all these complaints have been filed as if the petitioner did not give any reply for the Show Cause Notice.

7.It is not necessary for this Court to go into the question as to whether there was any contravention committed on the part of the petitioner. It will suffice to interfere with all the above complaints on the ground that the same suffers from non-application of mind, since the petitioner had given a reply for the Show Cause Notice and in spite of the same, the respondent has proceeded further to file the



complaint as if no reply was received from the petitioner.

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8.The learned Additional Public Prosecutor appearing on behalf of the respondent submitted that initially, the Show Cause Notice was issued to the petitioner by pointing out certain contraventions. The petitioner had complied with some of the contraventions pointed out and did not comply with the others. Therefore, whatever contraventions were not attended to, the complaints were confined only to those contraventions and it was filed.

9.If the above submission made by the learned Additional Public Prosecutor is taken to be correct, the respondent ought to have issued fresh Show Cause Notice to the petitioner by pointing out to the contraventions which are yet to be complied with by the petitioner. If such a Show Cause Notice had been issued to the petitioner, the petitioner would have given a reply for the same and inspection could have been made and thereafter, the complaint could have been filed by the respondent. Unfortunately, the respondent did not resort to this procedure.

10.On the face of it, all the complaints suffer from non-application of mind and these complaints have been filed in a hasty manner. Hence, the continuation of the proceedings based on these complaints will only result in abuse of process of



law, which requires the interference of this Court under Section 482 of Cr.P.C.,

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11. Accordingly, the complaints in C.C.Nos.556, 554, 558, 555 and 557 of 2023 pending on the file of the Chief Judicial Magistrate, Tiruvallur, is hereby quashed.

12. If any contraventions continues in the factory for which the petitioner is the Occupier-cum-Manager, fresh Show Cause Notice can be issued by the respondent and on receipt of the same, the petitioner can give a reply and an inspection can be made and if the contravention continues, it is left open to the respondent to file a fresh complaint and proceed further in accordance with law.

13. In the result, all the criminal original petitions are allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

21.02.2024

Index: Yes/No
Speaking order/Non-speaking Order
Neutral Citation: Yes/No
ssr



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N.ANAND VENKATESH, J

SSR

To

1.The the Chief Judicial Magistrate, Tiruvallur.

2.The Deputy Director,
Industrial Safety and Health,
No.6/11 & 6/12, Lal Bahadur Sastri Street,
II Floor, Periyakuppam,
Tiruvallur 602 001.

3.The Public Prosecutor,
High Court, Madras.

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