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CrI.O.P.No.28889 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.28889 of 2024

and

CrI.M.P.Nos.16149 and 16150 of 2024

Arindam Ganguly

... Petitioner

Vs.

The Deputy Director – IV,
Industrial Health and Safety,
47/1, Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai – 600 032.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./528 BNSS, 2023, to call for the records of the proceedings in C.C.No.2349 of 2024 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : Mr.Rahul Balaji

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.2349 of 2024 on the file of the Court of Chief Metropolitan Magistrate, Egmore, Chennai.

2. Learned counsel for the petitioner submitted that the petitioner is working as a Manager in Amazon Seller Services Private Limited (ASSPL). The ASSPL operates through online e-commerce market place under the name and style of 'Amazon.in', which enables the third party independent sellers to list and sell their products on Amazon.in to its customers across the India. As a part of a logistical arrangement, ASSPL has set up a fulfilment centre known as 'UMA 7' situated at D.No.103 Arcot Road, Virugambakkam, Chennai which is used to store wide varieties of finished pre-packed products including electronic goods, books, kitchen and household items and also fruits and vegetables. He further submitted that on 07.05.2024, the Joint Director-III, Industrial Health and Safety has inspected the premises and alleging that ASSPL is being used as a factory by the occupier for preserving, storing of fruits and vegetables in cold storage and packing of perishable goods and also



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the petitioner was wrongly identified to be an 'Occupier' and 'Manager'.

However, ASSPL is not involved in carrying out any "manufacturing process" at the premises and the nature and character of the pre-packed goods are not altered or changed at the premises. He further submitted that the petitioner was not nominated as a Director by the Board of ASSPL and that he could not be treated as an occupier. The Joint Director-III, Industrial Health and Safety, issued a show cause notice to the petitioner and ASSPL also sent a reply to the said notice. However, the first respondent filed a complaint in C.C.No.2349 of 2024 on 06.08.2024 before the Chief Metropolitan Magistrate, Egmore, Chennai against the petitioner for alleged violation of Section 92 of the Factories Act. He further submitted that impugned proceedings has been initiated against an employee of ASSPL, who has not been appointed as a Director of ASSPL. Therefore, the impugned proceedings initiated against the petitioner is liable to be quashed.

3. Heard the learned Additional Public Prosecutor on the above submission and also perused the materials available on record.

4. On a perusal of the records, it is seen that *prima facie* there are allegations made out against the petitioner. Whether in the said premises,



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the petitioner's company is being used as a factory by the occupier for manufacturing process of preserving and storing the goods or not can be decided only after trial and not at this stage. The grounds raised by the petitioners are all factual in nature and it requires appreciation of evidence and it is matter for trial and this Court cannot decide the same by exercising its jurisdiction under Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023. It is left open to the petitioners to raise all the grounds before the Court below during trial and the same shall be considered on its own merits and in accordance with law.

5. Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaenous petitions are closed.

19.12.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.
2. The Deputy Director – IV,
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47/1, Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai – 600 032.
- 3.The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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