



Crl.O.P.No.28045 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.28045 of 2023
& Crl.M.P.Nos.19477 and 19478 of 2023

R.Chandrasekaran

... Petitioner

Vs.

The State of Tamil Nadu
Represented by
The Deputy Director
Industrial Safety and Health
(Inspector of Industries)
Villupuram.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the charge sheet filed in C.C.No.397 of 2023 pending on the file of the learned Chief Judicial Magistrate, Chengalpattu and quash the same as barred by limitation.

For the petitioner	:	Mr.Gopalakrishnan .T.C
For the respondent	:	Mr.S.Udaya Kumar
		Government Advocate (Crl.Side)



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ORDER

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The Criminal Original Petition is filed to quash the proceedings in C.C.No.397 of 2023 under the Factories Act, for violation of provisions under the Factories Act particularly, in the complaint it has been stated that in the Granite Factory run by the petitioner, at the time of inspection carried on 13.06.2016 there were following statutory violations were found,

(i) First Aid kit box vested with the labourers and they were not trained by St.Johns Ambulance Association;

(ii) Details of work time of the labourers not entered in form -11 and affixed in the notice board.

For these violations, after causing show cause notice to the occupier and after obtaining sanction from the Director of Industrial Safety and Health and on 24.08.2016, the complaint being filed after a lapse of 7 years. Hence, it is contended that taking cognizance of an offence 7 years after the occurrence is hit by Section 106 of the Factories Act.



2. The learned Government Advocate has filed detailed counter, wherein the relevant portion of explaining the delay is as follows:-

“3.I submit that the petitioner's factory registered under the Factories Act and its registration No:KPM 07804 (Old No:KM 7804) and its name RC Golden Granites Pvt. Ltd, located at Survey No.124, Mangalam Village, Madhuranthagam Taluk, Chengalpet District (earlier in Kanchipuram District Jurisdiction). The petitioner himself admitted that the factory was inspected by the Joint Director of Industrial Safety and Health, Cuddalore on 13.06.2016 at 11. am. During the Inspection, certain violations were found and the show cause notice was issued to the petitioner on 20.06.2016. On receiving the show cause notice the petitioner did not submit any reply letter or compliance report to the Joint Director of Industrial Safety and Health, Cuddalore. The petitioner stated in the petition that “the petitioner's factories complied with all the violations mentioned by the respondent officials” was an untrue/false statement.



4. *I submit that the petitioner never submitted the written compliance report to the officials. Thereafter after the Joint Director of Industrial Safety and Health Cuddalore sent a further action letter to the petitioner on 01.08.2016. After obtaining a Sanction order from the Additional Director of Industrial Safety and Health, Trichy on 04.08.2016. The compliant/charge sheet was filed before the learned Chief Judicial Magistrate Court, Chengalpet on 29.08.2016. The Charge Sheet returned from the Learned Chief Judicial Magistrate Court, Chengalpet on 01.09.2016 due to certain rectification and improvisation to support the case. However, there were certain administrative reasons like vacancy of the Deputy Director of Industrial Safety and Health, Villupuram followed by the vacancy of the post of learned Chief Judicial Magistrate, Chengalpet from 2018 to 2020 and the prevalence of the Covid-19 pandemic period which all jointly being a major hindrance to make any legal proceeding for refilling of the Charge Sheet. In this case, the order of the Hon'ble Supreme Court of India Suo*



Motu Writ Petition (Civil) No(s).3/2020 gives relaxation to period of limitation of filing.

5. I submit that the charge sheet was refilled on 13.07.2023 before the learned Chief Judicial Magistrate Court, Chengalpet issued summons to the petitioner for appearing before the court in C.C.No.397 of 2023.”

3. The short point for consideration is whether the complaint is barred by limitation. Section 106 of the Factories Act reads as follows:-

“106.Limitation of prosecutions.- No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.”



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4. Though in the counter it is explained that the complaint was filed on 24.08.2016, after obtaining sanction to prosecute, the complainant has not taken care to rectify the defects and represented within time stating vacancy in the post of Chief Judicial Magistrate, Chengalpattu and break down of pandemic at the beginning of 2020, the complainant attempts to justify the delay of 7 years. Even if the delay is explained to be taken into consideration, it is justifiable during the period when the lock down was issued in view of the pandemic. No specific explanation for an inordinate delay was found in the counter. Further the Magistrate, who has taken cognizance of the complaint also not applied his mind, regarding the inordinate delay. Hence the petition to quash the proceedings in C.C.No.397 of 2023 on the file of the Court of the Chief Judicial Magistrate, Chengalpattu, is allowed. Consequently, the connected miscellaneous petitions are closed.

Jer

11.07.2024

Index: Yes/No

Internet: Yes/No

Neutral citation : Yes/No

Speaking order/Non-speaking order



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To

- 1.The Deputy Director
State of Tamil Nadu
Industrial Safety and Health
(Inspector of Industries)
Villupuram.
- 2.The Public Prosecutor
High Court of Madras.



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Dr.G.JAYACHANDRAN, J.,
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