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Crl.O.P.(MD)No.7018 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) Nos.7018 and 7021 of 2022 and
Crl.M.P.(MD).Nos.4828 and 4844 of 2022

Sridevi ... Petitioner in Crl.O.P.No.7018

N.Sundar ... Petitioner in Crl.O.P.No.7021

Vs.

The Deputy Director
Industrial Safety and Health Department,
Sivagangai. ...Respondents in both petitions

PRAYER: Criminal Original Petitions are filed under Section 482 of Cr.P.C, to call for the entire records connected with the complaint filed by the respondent in C.C.No.112 of 2021 on the file of the Chief Judicial Magistrate, Sivagangai and quash the same.

For petitioners : Mr.K.K.Kannan

For R-1 : Mr.P.Kottaichamy
Government Advocate
(Criminal Side)



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COMMON ORDER

These petitions have been filed seeking to quash the charge sheet in CC.No.112 of 2021, on the file of the Chief Judicial Magistrate, Sivagangai.

2. The case of the prosecution is that the petitioners are arrayed as accused in this case. It is alleged that the petitioner in Crl.O.P.No. 7018/2022 is the Proprietor of the company and the petitioner in Crl.O.P.No.7021/2022 is the Manager of the said company. The respondent preferred a complaint to the effect that on 12.08.2019, an accident had happened in the Mill of the petitioners, whereby, a worker by name Vittal succumbed to the burn injuries on 13.08.2019. One co-worker by name Jeyapratap got burn injuries in the alleged incident. The charges against the petitioners under Section 7A(1)(2) and Section 37(1) (a)(b)(c) and Section 32(a) and Section 41 of Tamil Nadu Factories Act and Rule 61 N and Rule 61 O of Tamil Nadu Factories Rules, 1950. The said complaint was taken cognizance in C.C.No.112/2021, for quashing the same, the petitioners are before this Court.



3. The learned counsel for the petitioners would submit that the petitioners have nothing to do with the alleged offence. He would contend that for the occurrence that had happened on 12.08.2019, the complaint came to be preferred only on 25.08.2021. He would further submit that as per Section 106 of the Factories Act, the complaint ought to have been filed within 90 days from the date of incident and that in the present case, the complaint has been made only on 25.08.2021, which is more than the statutory period of 90 days and hence, on the sole ground, he seeks interference.

4. The learned Government Advocate (Crl. Side) would submit that the complaint has been lodged within the statutory period of 90 days, ie., on 11.11.2019, which is within 90 days. He would further submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. Since the date of complaint has been disputed, this Court, vide order dated 11.03.2024, had called for the records from the concerned Court. Accordingly, today, when the matter was taken up for hearing, the records were produced.



6. A bare perusal of the records reveals that the complaint has been given as early as on 08.11.2019, which was rightly received by the concerned Court and to substantiate the same, necessary seal is also seen in the said complaint. Hence, the date of complaint is clarified to that of 08.11.2019. Accordingly, the ground that has been urged by the petitioners to that of limitation to prefer a complaint within 90 days goes.

7. Considering the said facts and circumstances of the case and the complaint thereon, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to them to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

8. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.112 of 2021 on the file of the Chief Judicial Magistrate, Sivagangai. Accordingly, these petitions, being devoid of merits, are



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dismissed. However, the petitioners are at liberty to raise all the issues before the concerned Court. Consequently, connected miscellaneous petitions are dismissed.

9. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. The trial Court is directed to complete the trial within six months from the date of receipt of a copy of this order.

18.03.2024

Index : Yes/No
NCC : Yes/No

Office to Note: The Registry is directed to return the original records to the concerned Court under proper acknowledgment

RR



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To

1.The Chief Judicial Magistrate, Sivagangai

2.The Deputy Director
Industrial Safety and Health Department,
Sivagangai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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