

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35904-2024 (O&M)

Date of Decision: 29.07.2024

Vipan Kumar Mehra ... Petitioner

VS.

State of Punjab ... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Chandra Uday Singh, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

CRM-29865-2024

Application under Rule 3-A(I) Chapter VI Part B, Vol.V of High Court Rules and Orders for grant of leave to file the present petition is allowed.

Main case

(1). This petition under Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for quashing the complaint bearing No.COMA/47254/2023 dated 21.07.2023 (Annexure P5) and subsequent proceedings arising therefrom.

(2). Learned counsel for the petitioner submits that pursuant to filing of FIR No.0049 dated 14.03.2023 in relation to break down of fire in the factory of the petitioners on 14.03.2023, the factory inspector carried out inspections of the factory firstly on 15.03.2023 and thereafter on 05.04.2023 till 17.04.2023 and thereafter moved the subject complaint dated 20.07.2023 (Annexure P5) and cognizance thereof was taken by the Court under Section 200 CrPC on 21.07.2023.

(3). He contends that the CJM/JMIC were barred to take cognizance of the complaint under Section 106 of the Factories Act, 1948 which bars the Court to take cognizance of an offence unless a complaint is made within three months of the date on which the alleged commission of offence came to the knowledge of the Inspector. Reliance has been placed on **JJ Irani vs. State of Jharkhand 2015 AIR SC 3735** to contend that it was in the knowledge of the Inspector that the occurrences took place on 08.07.2015 and 06.05.2015, respectively and the complaints were admittedly made on 30.12.2015 and 05.01.2016 and therefore, cognizance under Sections 92 and 96-A of the Factories were wrongly and illegally taken against the petitioners.

(4). Heard learned counsel for the petitioner.

(5). The fire broke in the ware house of the petitioner on 14.03.2023 wherein some of the workers of the factory of the petitioner succumbed to the injuries sustained in the fire. The Factory Inspector inspected the factory premises initially on 15.03.2023, 05.04.2023 and finally on 17.04.2023. Thereafter on 20.07.2023, the complaint in question has been filed by the Factory Inspector before the CJM, Ludhiana.

(6). The contention of the petitioner is that since the Factory Inspector gained knowledge within the meaning of Section 106 of the Act and therefore, the complaint ought to have been made within a period of 3 months or 90 days which shall commence from 15.3.2023 which has been rebutted by learned State counsel on the ground that mere visiting the factory premises cannot be termed as 'knowledge'.

(7). Be that as it may, since there are submissions and counter-assertions thereto, it is not a fit for this Court to invoke the inherent jurisdiction

under Section 528 BNSS and quash the proceedings in the complaint case before the trial Court. Parties are liberty to take all such pleas before the trial court which shall decide the matter in accordance with law.

(8). With these observations, this petition is dismissed.

29.07.2024
V.Vishal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No