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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4847/2019 & CRL.M.A. 36758/2019**
HUMAN CARE MEDICAL CHARITABLE
TRUST & ANR Petitioners

Through: Mr. Neeraj Yadav, Adv.
versus

STATE THR.GNCTD Respondent
Through: Mr. Pradeep Gahalot, APP
for the State with Mr.
Dhruv Shokeen & Mr.
Harish Chand, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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02.05.2024

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, *inter alia*, praying as under :

- (a) *Quash the Complaint filed by the Respondent No. 1 under the BOCW, Act and rules framed thereunder pending in the court of ShriPranjalAneja, MM-01 Shd/ Karkardooma, Delhi in C.C. No. 14 FI / 16 titled as State (Represented by Inspector under BOCW Act, 1996, Govt. of NCT of Delhi) Vs. Human Care Medical Charitable Trust and others having Complaint ID No. 5235 of 2016;*
- (b) *Quash/ Set aside the Order dated 02.05.2016 by Shri Pranjal Aneja, MM-01 Shd/ Karkardooma, Delhi in C.C. No. 14 FI / 16 and Complaint ID No. 5235 of 2016 titled as State (Represented by Inspector under BOCW Act, 1996, Govt. of NCT of Delhi) Vs. Human Care Medical Charitable Trust and others;*
- (c) *Pass any other or further order(s) as this Hon'ble court may deem fit and proper in the facts and circumstances of the case.*

2. It is an admitted case that the alleged incident had taken place on 03.07.2015 and the inspection was carried out by the respondent department on 07.07.2015 whereas the complaint was admittedly filed on 28.10.2015.



3. The learned senior counsel for the petitioners relies upon Section 55 of the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 [hereafter '**the Act**']. The same reads as under:

“55. Limitation of prosecutions.- No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the Director General, the Chief Inspector, an office- bearer of a voluntary Organisation or, as the case may be, an office- bearer of any concerned trade union.”

4. Section 55 of the Act specifically provides that the Court is barred from taking cognizance of an offence under the Act beyond the period of three months from the date on which the alleged offence comes to the knowledge of the Director General, a Chief Inspector, an office- bearer of a voluntary Organisation or, as the case may be, an office- bearer of any concerned trade union.

5. He submits that since the inspection was carried out by the complainant department on 07.07.2015, the knowledge of the alleged offence on the said date cannot be denied.

6. He submits that, in such circumstances, filing of the complaint beyond a period of three months is an admitted case and cognizance could not have been taken by the learned Trial Court.

7. The Hon'ble Apex Court in the case of ***J.J. Irani v. State of Jharkhand*** : (2014) SCC 813, while noting a similar provision in Section 108 of the Factories Act, 1948, quashed the complaint filed beyond the period of limitation.

8. The Hon'ble Apex Court in the facts of the said case held that the complainant had not disputed to have participated in the preliminary investigation along with the Chief Inspector of Factories and thus, had acquired knowledge of the alleged



commission of the offence when the report of preliminary investigation was sent to the Commissioner of Labour.

9. In the present case also the complaint was filed under Delhi Building and Constructions Workers (Regulations of Employment and Conditions of Service Rules, 2002) read with Sections 40 & 53 of the Act through the Inspector in relation to the alleged contravention of various provisions of the Act and Rules. It was alleged that an accident had occurred at the construction site which is owned by the petitioner. It is not disputed that the accident had occurred on 03.07.2015 and the inspection was carried by the Inspector of Building and Construction on 07.07.2015. Thus, the complaint which was admittedly filed on 28.10.2015 was filed beyond a period of three months from the date on which the alleged offence came to the knowledge of the Inspector of Building and Construction.

10. In view of the above, the present petition is allowed and the complaint filed before the learned MM being CC No. 14F1/16 titled as State (*Represented by Inspector under BOCW Act, Govt. of NCT of Delhi*) v. *Human Care Medical Charitable Trust and Ors.* is quashed.

AMIT MAHAJAN, J

MAY 2, 2024

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