

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 3220 of 2022

With

CRAN 7 of 2025

Shri Ramji Tewari

Vs.

The State of West Bengal & Anr.

For the Petitioners	: Mr. Pawan Kr. Gupta,
	: Mr. Anil Kumar Gupta,
	: Ms. Sofial Nesar,
	: Mr. Santanu Sett,
	: Mr. Yogesh Kumar Sharma

For the Private Opposite Party No.2.	: Mr. Ajit Kumar Mishra,
	: Mr. A. Dey.

Hearing Concluded on	: 08 th August 2025
----------------------	--------------------------------

Judgment on	: 29 th August 2025.
-------------	---------------------------------

UDAY KUMAR, J.: –

Introduction:

1. The petitioner, Shri Ramji Tewari, the Principal General Manager of the BSNL Telecom Factory has approached this Court invoking its

inherent powers under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973, sought for the quashing of the criminal proceedings initiated against him in Complaint Case No. C-185 of 2022, currently pending before the learned Chief Judicial Magistrate, Alipore, South 24 Parganas. The petitioner is the sole accused, a fact that lies at the heart of this dispute.

2. The complaint, based on an inspection conducted by the Labour Enforcement Officer, Respondent No. 2, on August 19, 2021, alleged certain breaches of the Contract Labour (Regulation & Abolition) Act, 1970 (hereinafter, "the Act"). The learned Magistrate took cognizance of the offence under Sections 23 and 24 of the Act, on January 25, 2022, and issued summons to the petitioner.
3. The petitioner's grievances are founded on three fundamental legal grounds, which, in his submission, render the entire prosecution a nullity:
 - The complaint is barred by limitation under Section 27 of the Act.
 - The prosecution is legally untenable due to the non-joinder of the principal offender, the company itself.
 - The allegations against him are vague and insufficient to establish criminal liability.
4. Mr. Pawan Kumar Gupta, learned counsel for the petitioner, forcefully argued that the order of cognizance is an egregious legal error. He pointed out that the three-month statutory period for taking

cognizance, as prescribed by Section 27 of the Act, expired on November 19, 2021, while the order was passed on January 25, 2022. This inordinate delay, he contended, without any application for condonation, constitutes a jurisdictional bar and would be fatal for the prosecution.

5. Mr. Gupta further submitted that the prosecution is a fundamental violation of Section 25 of the Act, which, when read in conjunction with the landmark ruling of the Hon'ble Supreme Court in *Aneeta Hada v. Godfather Travels & Tours (P) Ltd.*, (2012) 5 SCC 661, makes it clear that an individual cannot be prosecuted for a corporate offense unless the company is also arrayed as an accused. The company is a necessary party to the prosecution. The failure to arraign the company as an accused renders the entire proceeding against the individual petitioner legally untenable.
6. Finally, he highlighted the absence of specific allegations in the complaint, arguing that merely stating the petitioner is the "Principal Employer" is not enough to fix criminal liability, especially as he had joined the BSNL Telecom Factory only a few months prior to the inspection.
7. Per contra, Mr. Ajit Kumar Mishra, learned counsel for the opposite parties, sought to defend the prosecution by asserting that the petitioner, as the Principal General Manager, holds direct responsibility for the factory's affairs as a "principal employer." He urged this Court to view the petitioner's objections as mere technicalities that should not impede the trial court's proceedings. He

argued that the matter of vicarious liability and the evidence should be thrashed out during the trial.

8. I have carefully considered the submissions of the learned counsels and have perused the material on record. The central question for my determination is: -

“Whether the criminal proceedings against the petitioner are legally sustainable in light of the procedural and substantive objections raised?”

9. It is a well-established principle that the power under Section 482 Cr.P.C. should be exercised sparingly, only to prevent an abuse of the process of law. In my considered opinion, the present case is a textbook example of where such intervention is not just warranted but necessary.
10. The first and most critical flaw in the prosecution is the bar of limitation under Section 27 of the Act. The provision is a clearly
11. The first and most glaring defect in this prosecution is the blatant disregard for the statutory period of limitation. Section 27 of the Act mandates not a mere procedural formality; it is a jurisdictional safeguard designed to protect individuals from stale prosecutions. The language of Section 27 is peremptory: "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 an inspector..."

12. The inspection occurred on August 19, 2021. The period of three months expired on or about November 19, 2021. The learned Magistrate's order taking cognizance was passed on January 25, 2022, more than two months after the deadline. The order of cognizance is ex-facie time-barred. There is no prayer for the condonation of this delay. This omission, in my view, is an incurable defect that renders the order of cognizance a legal nullity.
13. This finding is consistent with the decision in *Ben Salmon v. State of Karnataka*, Criminal Petition No. 7370 of 2015, which held that Section 27 of the Contract Labour Act is a strict legal requirement, and non-compliance would be a valid ground for quashing proceedings.
14. The second fatal infirmity is the complaint's failure to implead the company, BSNL Telecom Factory. The law on this point is no longer a matter of debate. Section 25 of the Act contemplates that "If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence..."
15. The Hon'ble Supreme Court, in the seminal case of *Aneeta Hada* (supra), has definitively settled the jurisprudence on this subject. The law is clear: for a criminal prosecution to proceed against an officer of a company for a corporate offense, the company must be arraigned as an accused. The company is the principal offender, and the liability of

its officers is vicarious. To prosecute an agent while ignoring the principal is a procedural travesty that cannot be sustained in law.

16. Finally, I turn to the vague and generalized nature of the allegations. The complaint simply states that the petitioner holds an office and is "responsible for supervision." In criminal jurisprudence, guilt cannot be presumed from a person's designation alone. A complaint must contain specific averments that demonstrate the accused's personal role, action, or inaction that led to the commission of the offence. The Hon'ble Supreme Court has cautioned against holding individuals vicariously liable merely by virtue of their position, a principle laid down in cases such as *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla*, (2005) 8 SCC 89. To force the petitioner to undergo a trial based on such a hollow complaint would be a gross abuse of the legal process and a violation of his fundamental right to a fair trial.
17. In any event, I am convinced that the cumulative effect of these three fatal flaws—the time-barred complaint, the non-joinder of the company, and the lack of specific allegations—is that the prosecution against the petitioner is legally unsound and unsustainable. To permit these proceedings to continue would be nothing short of judicial endorsement of a flawed and harassing process.
18. Therefore, the CRR 3220 of 2022 is allowed.
19. The entire proceedings in connection with Complaint Case No. C-185 of 2022, along with the order dated January 25, 2022, are hereby quashed.

20. The learned Chief Judicial Magistrate, Alipore, South 24 Parganas, shall ensure that the case record is closed and all further proceedings against the petitioner in this matter are terminated forthwith.
21. The connected application, CRAN 7 of 2025, is also disposed of.
22. Interim order(s), if any, shall stand vacated.
23. There is no order as to costs.
24. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties as expeditiously as possible upon compliance with the necessary formalities.

(Uday Kumar, J.)