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Crl.O.P.No.18839 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.18839 of 2023
and Crl.M.P.Nos.12614 & 12615 of 2023

A.Jayakumar

... Petitioner

Vs.

The Deputy Director,
Industrial Safety and Helath,
Salem.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned complaint in C.C.No.798 of 2023 now pending trial on the file of the learned Chief Judicial Magistrate, Salem and to quash the same.

For Petitioner : Mr.V.Karthik, Senior Counsel
For Mr.N.Damodaran

For Respondent : Ms.J.R.Archana
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.798 of 2023 pending on the file of the learned Chief Judicial Magistrate, Salem, thereby taken cognizance for the



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offences under offence under Section 87 Rule 95(1) Schedule XIX (7)(2)(3)(4), Section 41 Rule 61E & Section 41 Rule 61F punishable under Section 92 of the Tamil Nadu Factories Act, as against the petitioner.

2. The petitioner is an accused in the complaint lodged by the respondent for the offences under Section 87 Rule 95(1) Schedule XIX (7)(2)(3)(4), Section 41 Rule 61E & Section 41 Rule 61F punishable under Section 92 of the Tamil Nadu Factories Act (hereinafter called as “the Act”). The petitioner is the Manger of M/s.ECOF Industries Pvt. Ltd., (hereinafter called as “company”) and it is engaged in the manufacturing of household cleaning products such as laundry detergents and dishwash soaps under the brands of Tide, Sabeena etc. It is registered under the Companies Act. While being so, on the complaint lodged by the wife of the deceased, the respondent conducted inspection on the petitioner’s company premises on 10.08.2020 and also 12.08.2020, alleging that her husband got exposed to chemical dust for the past 25 years, which led to his death on 30.01.2020. Further she was also paid Rs.7.5 lakhs as compensation by the petitioner. On the complaint, inspection was made and after inspection, the petitioner



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company was suspended from all production activities on 25.08.2020

under Section 87 Rule 97 sub clause IV of the Act, on the ground that it was found that in the petitioner company severe unsafe condition were in existence in the factory premises posing serious health hazards to the employees by way of causing injury or death of persons employed. The petitioner was also served with show cause notice dated 30.09.2020 and on receipt of the same, the petitioner submitted detailed reply on 03.10.2020 by refuting the allegation and had also sought for copies of document relied upon by the respondent in the show cause notice so as to file full-fledged reply. However, without satisfying the reply given by the petitioner, the respondent lodged complaint for the offences punishable under Section 87 Rule 95(1) Schedule XIX (7)(2)(3)(4), Section 41 Rule 61E & Section 41 Rule 61F punishable under Section 92 of the Act.

3. The learned Senior Counsel appearing for the petitioner submitted that there was no accident at all in the company. Even according to the complaint lodged by the wife of the deceased, it was alleged that the deceased had died on 30.01.2020 due to the 25 years of employment that led to long time exposure to chemical dusts in the petitioner's company. The complaint was lodged on 15.07.2020 and



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thereafter inspection was conducted on 10.08.2020 & 12.08.2020.

WEB CO Although the date of knowledge can be taken as 10.08.2020 viz., the date of the first inspection, the respondent ought to have filed the complaint within a period of three months from the date of his knowledge, as per section 106 of the Act. Therefore, the complaint itself is barred by limitation.

4. The respondent filed counter and the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioner did not even inform the accident to the Inspector of Factories by way of Form 18 as mandated under Section 88 of the Act. Only on the complaint lodged by the wife of the deceased, the respondent conducted the inspection on the petitioner's company premises. That apart, due to Covid-19 pandemic, there was a delay in lodging of the complaint.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. It is relevant to extract the provision under Section 106 of the Factories Act, as follows :-



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“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.”

Thus it is clear that 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.

7. Admittedly, the wife of the deceased lodged complaint as early as on 15.07.2020. Thereafter, the inspection was conducted on the petitioner's company premises on 10.08.2020 & 12.08.2020. But the complaint was filed only on 23.11.2020. Thereafter, it was returned and represented on 08.04.2022. Once again it was returned and thereafter it was represented on 26.05.2023. Finally, the trial Court had taken



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cognizance on 26.06.2023 and issued summons to the petitioner.

Therefore, the complaint itself was filed after the period of three months.

That apart, cognizance was taken by the trial Court only on 26.06.2023 viz., nearly after three years from the date of knowledge of the accident.

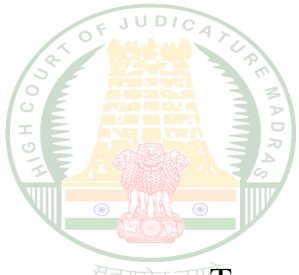
Therefore, the complaint itself is barred by limitation. On this sole ground, the complaint cannot be sustained and is liable to be quashed.

8. Accordingly, the impugned proceedings in C.C.No.798 of 2023 pending on the file of the learned Chief Judicial Magistrate, Salem, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are also closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



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To
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1. The Chief Judicial Magistrate,
Salem.
2. The Deputy Director,
Industrial Safety and Helath,
Salem.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.
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