



Crl.O.P.No.19846 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 19846 of 2023

and

Crl.M.P.Nos.13424 & 13425 of 2023

1. M/s.Greenways Shipping Agencies Pvt Ltd.,
Greenways Group,
Represent By Its Director
Lalit Beriwal,
Old No. 55/New No.113,
Armenian Street, Chennai.600001.

2. Lalit Beriwal
Director, Greenways Group,
M/S. Greenways Shipping Agencies Pvt. Ltd.,
Greenways Group,
Old No.55/New No.113,
Armenian Street, Chennai – 600001.

.... Petitioners

Vs

Union of India
Represented By Shri. Jarpula Mahesh,
The Assistant Director (Safety),
Inspectorate Dock Safety,
Government of India,
Ministry of Labour and Employment,
Anchor Gate Building,
III Floor , Rajaji Salai, Chennai- 600 001.

.... Respondent



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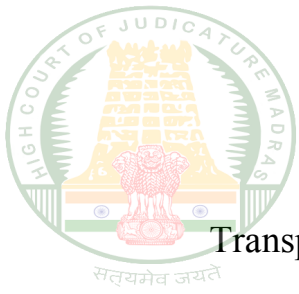
PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records in connected to C.C.No.534 of 2023 on the file of the XVI Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioners : Mr.S.Ramachandran
For Respondent : Mr.D.Simon

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.534 of 2023 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai, thereby taken cognizance for the offences punishable under Sections 14(2)(a) of the Dock Workers (Safety, Health & Welfare) Act, 1986 as against the petitioners.

2. The respondent has filed a complaint as against the petitioners for the offence punishable under Section 14(2)(a) of the Dock Workers (Safety, Health & Welfare) Act, 1986 for the breach of Regulations 107(1) and 111(1) of the Dock Workers (Safety, Health and Welfare) Regulations, 1990. It is alleged that on 28.02.2021, the second petitioner, representing the first petitioner, was engaged in the transportation of steel coils within the premises of Port. For the said purpose, A3 and A4, operating under the name M/s.Sri Chellammal



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Transport, Chennai and being the registered owners of the trailer bearing Registration No.TN/18/AB/5126, were engaged by the petitioners to carry out the said transportation. On the same day, one M.Tamil Mani, an employee of the port, was engaged in berthing and mooring operations at Jawahar Docks-4. On completion of his duty, while proceeding to his residence on a motorcycle and approaching Gate No.7 of the Port premises, he was struck and run over by the aforementioned trailer bearing No.TN/18/AB/5126. As a result, he sustained grievous chest injuries and was immediately admitted to Chennai Port Hospital, where he succumbed to his injuries.

3. At the time of the incident, the said trailer was engaged in the process of collecting steel coils stored by the petitioners. The vehicle was operated by A5, who was responsible for driving the trailer and conducting the said operation. The nature of the work being carried out falls within the ambit of “Dock Work” as defined under Section 2(e) of the Dock Workers (Safety, Health and Welfare) Act, 1986.

4. Pursuant to the said incident, an FIR was registered in



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Crime No.4 of 2021 for the offences punishable under Section 304(A) of
IPC as against the driver of the trailer bearing registration
No..TN/18/AB/5126, who has been arrayed as A5 in the present
complaint. The allegations as against the petitioners are follows:

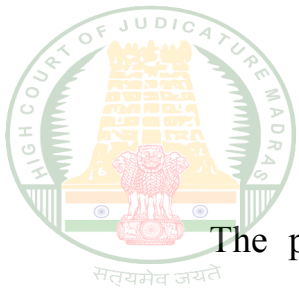
(i) The Petitioner No.1 was engaged in handling, storing and transporting cargo at Chennai Port, while Petitioner No.2 was responsible for day-to-day business related to dock work carried out by 1st petitioner.

(ii) The petitioners were the principal employer of Accused No.5 and had failed to ensure that dock workers including Accused No.5 had undergone medical examination prior to the employment on dock work.

(iii) The petitioners failed to impart initial and periodic training in the field of occupational safety and health to dock workers.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

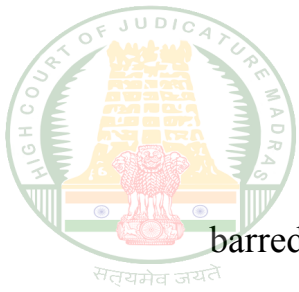
6. The petitioners are arrayed as A1 & A2. The first petitioner was engaged in handling, storing and transporting cargo at the Chennai Port, while the second petitioner was in charge of the day-to-day affairs to dock work undertaken by the first petitioner. The petitioners were principal employers of the 5th accused. It is alleged that the petitioners failed to ensure that the dock workers underwent the requisite medical examination prior to their engagement of dock work.



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WEB COPY The petitioners failed to provide the mandatory initial and periodic training in the field of occupational safety and health to dock workers, as required under the relevant statutory provisions.

7. Therefore, the petitioners have committed the offence under Section 14(2)(a) of the Dock Workers (Safety, Health and Welfare) Act, 1986, thereby breach of Regulations 107(1) read with Regulation 7(4)(b) and Regulation 111(1) read with Regulation 7(11) of the Dock Workers (Safety, Health and Welfare) Regulations, 1990. The only ground raised in this petition that the complaint itself is barred by limitation. The offence punishable under Section 14(2)(a) of the Dock Workers (Safety, Health and Welfare) Act, 1986, is punishable with a maximum punishment of six months. In according to the provision under Section 468 of Cr.P.C, the complaint ought to have been filed within a period of one year from the date of occurrence or the date of knowledge of the occurrence. The incident occurred on 28.02.2021. However, the complaint was filed only on 07.11.2022. Even assuming that the respondent had knowledge about the accident on 28.02.2021 itself, the complaint ought to have been filed within a period of one year from such date. The filing of the complaint beyond this statutory period renders it



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barred by limitation under Section 468 of Cr.P.C.

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8. The learned counsel for the respondent would submit that due to COVID-19 Pandemic circumstances, the respondent was unable to file the complaint within the prescribed period of one year. In this regard, the very same issue has been dealt with by this Court in Crl.O.P.No.18516 of 2021, by an order dated 17.01.2023, this Court held as follows :

9. Section 17(3)(b)(iii) of the Act says about the limitation, which is extracted hereunder :-

“17. Provisions relating to Jurisdiction:-

(1).....

(2).....

(3)

(b) in the case of an offence punishable with imprisonment

(i) within one year from the date of the offence ; or

(ii) where the commission of the offence was not known to the Inspector within one year from the first day on which the offence comes



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to the knowledge of the Inspector; or

(iii) where it is not known by whom the offence was committed, within six months from the first day on which the identity of the offender is known to the Inspector.”

Accordingly, the first respondent ought to have lodged complaint within a period of one year from the date of offence. If the offence was not known to the Inspector, within a period of one year whenever the offence comes to the knowledge of the Inspector. The complaint has to be filed within a period of one year from the date of knowledge. In the case on hand, the first respondent was duly informed about the accident on 30.12.2019 itself. Whereas the complaint was filed only on 19.03.2021. Therefore, it is clearly barred by limitation.

*10. The first respondent filed counter and it revealed that that due to Covid-19, the complaint was lodged belatedly and as such the delay can be condoned as per the order dated **10.01.2022**, passed by the Hon'ble Supreme Court of India in suo motu writ petition in **Suo Motu W.P.(C)No.3 of 2020**. It is held that in cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons*



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shall have a limitation period of 90 days from 01.03.2022.

The relevant portion is extracted hereunder :-

“2. On 23.03.2020, this Court directed extension of the period of limitation in all proceedings before Courts/Tribunals including this Court w.e.f. 15.03.2020 till further orders. On 08.03.2021, the order dated 23.03.2020 was brought to an end, permitting the relaxation of period of limitation between 15.03.2020 and 14.03.2021. While doing so, it was made clear that the period of limitation would start from 15.03.2021.

3. Thereafter, due to a second surge in COVID-19 cases, the Supreme Court Advocates on Record Association (SCAORA) intervened in the Suo Motu proceedings by filing Miscellaneous Application No. 665 of 2021 seeking restoration of the order dated 23.03.2020 relaxing limitation. The aforesaid Miscellaneous Application No. 665 of 2021 was disposed of by this Court vide Order dated 23.09.2021, wherein this Court extended the period of limitation in all proceedings before the Courts/Tribunals including this Court w.e.f. 15.03.2020 till 02.10.2021.

4. The present Miscellaneous Application has been filed by the Supreme Court Advocates-on-Record Association in the context of the spread of the new



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variant of the COVID-19 and the drastic surge in the number of COVID cases across the country. Considering the prevailing conditions, the applicants are seeking the following:

i. allow the present application by restoring the order dated 23.03.2020 passed by this Hon'ble Court in Suo Motu Writ Petition (C) No. 3 of 2020; and

ii. allow the present application by restoring the order dated 27.04.2021 passed by this Hon'ble Court in M.A. No. 665 of 2021 in Suo Motu Writ Petition (C) No. 3 of 2020; and

iii. pass such other order or orders as this Hon'ble Court may deem fit and proper.

5. Taking into consideration the arguments advanced by learned Counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under



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any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed Under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of



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proceedings.”

11. *Subsequently, the Hon'ble Supreme Court of India clarified above decision in the judgement reported in (2021) 12 SCC 1 in the case of S. Kasi vs. State through Inspector of Police, Madurai, that while considering the default bail under Section 167(2) of Cr.P.C., the limitation cannot extended since the denial of compulsive bail to the accused will definitely amount to violation of his fundamental right under Article 21 of the Constitution of India. No accused is deprived of his valuable right as contemplated under Section 167 (2) of Cr.P.C.*

12. *Therefore, the order passed by the Hon'ble Supreme Court of India in the Suomuto Writ Petition (C).No.3 of 2020, never meant to curtail any provisions of the Code of Criminal Procedure or any other statute which was enacted to protect the personal liberty of a person. Hence, the judgement cited by the learned counsel appearing for the first respondent is not applicable to the case on hand. However, on the other grounds as stated above, the complaint lodged by the first respondent is not sustainable as against the petitioners and it is liable to be quashed.*



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10. In view of the above, the proceedings in C.C.No.534 of 2023

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on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai, cannot be sustained and is liable to be quashed. Accordingly, it is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

28.03.2025

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

The XVI Metropolitan Magistrate,
George Town, Chennai

G.K.ILANTHIRAIYAN, J.

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