



Crl.O.P.Nos.23543 & 25987 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.Nos.23543 & 25987 of 2025

and

Crl.M.P.Nos.16049, 16050, 17664 & 17665 of 2025

Srikanth Narasimhan

... Petitioner
in Crl.O.P.No.23543 of 2025

C.Sumithra

... Petitioner
in Crl.O.P.No.25987 of 2025

Vs.

State of Tamil Nadu,
Represented by the Deputy Director,
Industrial Safety and Health-II (Coimbatore),
S.F.No.575/2 575/3
Government Industrial Training Institute Campus,
G.N.Mills (Post), Mettupalayam Road,
Coimbatore – 641 029.

... Respondent
in both petitions

Common Prayer : Criminal Original Petitions filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita to call for the records and quash the complaint and the proceedings in S.T.C.No.2637 of 2025 on the file of the Chief Judicial Magistrate, Coimbatore.



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CrI.O.P.Nos.23543 & 25987 of 2025

For Petitioner : Mr.P.V.Balasubramaniam
Senior Counsel
for M/s.Trilegal
in both petitions

For Respondent : Mr.K.M.D.Muhilan,
Additional Public Prosecutor
in both petitions

COMMON ORDER

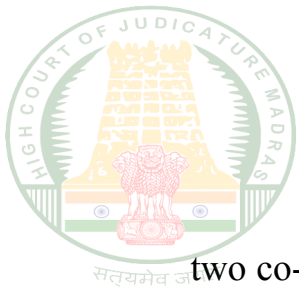
These Criminal Original Petitions are filed to quash the complaint in S.T.C.No.2637 of 2025 on the file of the learned Chief Judicial Magistrate, Coimbatore, filed against the petitioners for the offences under Section 7A(1)(2) and Section 41 of the Factories Act, 1948, r/w. Rule 61-F of the Factories Rules, 1950.

2.The 2nd petitioner is the manager/owner of the factory namely M/s.Hydro Prokav Pumps India Pvt. Ltd. The 1st petitioner was the occupier of the factory. Three workers, namely, Vinoth Kumar, Rajesh Kumar and Muthukumar were employed in the factory.



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3.It is the case of the complainant/Deputy Director, Industrial Safety and Health-II, that, on 07.12.2023, all the three workers reported for work at 08.30 a.m. On 07.12.2023 at 11.20 a.m., a steel shaft of size-length 30 cm, dia 5 cm was required to be polished to suit the part into a fixture. The steel shaft was handed over to Vinoth Kumar, Lathe Operator, for polishing work. Vinoth Kumar followed an unconventional method to polish the shaft using LH04 Lathe. Vinoth Kumar was allowed to load the shaft to be polished onto the LH04 Lathe chuck and fixed. An worn-out emery belt of size – length 30 cm and width 25 mm was used for the polishing work. Vinoth Kumar, by wearing gloves on both hands, operated the lathe to rotate at around 150 rpm. He held the ends of the emery belt with his two hands close to the rotating shaft for polishing of shaft. While he was carrying out this polishing work, two co-workers Rajeshkumar-Whirling Machine Operator and Manipatsha-Lathe Operator stood adjacent to him and were having conversation with him. Vinoth Kumar, using his hands, reversed the chuck spindle rotation and continued the polishing work of the shaft using emery belt being held in his both hands. Suddenly, at around 11.40 a.m., because of the unconventional work method and due to distractions by the



Crl.O.P.Nos.23543 & 25987 of 2025

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two co-workers who stood with him and talked with him and also due to the gloves he was wearing in his hands, due to the rotation of the shaft, the belt he was using for polishing was pulled in and his left hand hit the rotating shaft causing lacerated wound and fracture on his left hand and his face was hit with the body of the lathe causing lacerated wound onto his left side of the face and he had a bleeding injury. Immediately, the Lathe was stopped by the co-workers and the injured was taken to the hospital and given treatment. Thereafter, he was discharged from the hospital on 17.12.2023. Since the petitioners, who are the occupier and the manager of the factory, allowed the worker to work in an unsafe and unconventional method, which has resulted in the accident, it is in contravention of Section 7A(1)(2) and Section 41 of the Factories Act, 1948, r/w. Rule 61-F of the Factories Rules, 1950. Therefore, the respondent filed a complaint as against the petitioners for the said offences. The said complaint was taken on file by the learned Chief Judicial Magistrate, Coimbatore, in S.T.C.No.2637 of 2025, against the petitioners, who are the occupier and the manager/owner of the factory, for the offences under Section 7A(1)(2) and Section 41 of the Factories Act, 1948, r/w. Rule 61-F of the Factories Rules, 1950. Challenging the same, Crl.O.P.No.23543 of 2025 has been filed by the occupier and



Crl.O.P.Nos.23543 & 25987 of 2025

Crl.O.P.No.25987 of 2025 has been filed by the manager/owner.

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4.Learned Senior Counsel appearing for the petitioners would submit that the very complaint itself clearly indicates that, admittedly, there is no violation on the side of the petitioners. The petitioners never allowed the workers to work in an unsafe method and the accident, even as per the complaint, had occurred due to the distraction of the worker caused by other co-workers while he was talking with the other co-workers. It is his contention that the injured was wearing hand gloves at the time of accident. Merely because the accident took place due to some negligent handling by the worker, it cannot be said that there is contravention of the provisions of the Factories Act.

5.The learned Senior Counsel further submitted that the petitioners have clearly given reply to the Show Cause Notice, wherein, all the facts have been clearly explained. However, the reply to the Show Cause Notice has not been properly considered and the same has been mechanically rejected and prosecution has been launched.



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6.Further, it is the contention of the learned Senior Counsel that the prosecution has been launched beyond the period of limitation. He would submit that the entire prosecution case, even presumed to be true as such, no offence, whatsoever, is made out as against the petitioners. Therefore, continuation of prosecution as against the petitioners is a clear abuse of process of law.

7.Whereas, the learned Additional Public Prosecutor appearing for the respondent/complainant would submit that the complaint has been filed on the basis of the violations found out and the worker was allowed to continue to work in an unsafe and unconventional method at the relevant point of time. Therefore, according to him, it is a clear contravention of Section 7A(1)(2) and Section 41 of the Factories Act, 1948, r/w. Rule 61-F of the Factories Rules, 1950. Further, it is his contention that prosecution has been filed well within limitation, i.e., within three months and sanction has also been granted. Hence, he opposed these petitions.

8.I have perused the entire materials available on record.



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9. Admittedly, the accident took place in the factory which resulted in one of the workers namely Vinoth Kumar suffering from lacerated wound and fracture on his left hand and lacerated wound on face, while he was polishing a steel shaft. The accident took place at 11.40 a.m. on 07.12.2023. The injured was admitted in the hospital immediately and thereafter, discharged from the hospital on 17.12.2023. Form-18 has been submitted by the petitioner on 29.12.2023. An inspection was conducted by the Joint Director of Industrial Safety & Health, and according to them, Vinoth Kumar, while polishing the shaft, followed an unconventional method and he was using a worn out emery belt of size – length 30 cm and width 25 mm. Further, he was also distracted by other co-workers who were conversing with him.

10. The very allegations in the complaint itself make it clear that the accident had occurred mainly due to the distraction of the worker while operating the machine, since he was engaged in conversation with other co-workers at that time. Admittedly, he was also wearing hand gloves. Though it is stated that he was using a worn out emery belt of size length 30 cm and



Crl.O.P.Nos.23543 & 25987 of 2025

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width 25 mm, in the Inspection Report, except stating that he was using a worn out emery belt, no photograph, whatsoever, is annexed to show that the belt was worn out. Therefore, when the worker himself was distracted due to the conversation he had with the other co-workers which has resulted in the accident, it cannot be said that there was no safety measure provided by the occupier or the manager of the factory. No doubt, it is the general duty of the occupier to ensure, so far as is reasonably practicable, the health, safety and welfare of all the workers while they are at work in the factory. However, in the given case, the fact remains that the worker himself got distracted while operating the machine due to engaging in conversation. Further, to show that only a worn out emery belt was used, except the Inspection Report based on the inspection conducted much later after intimation was sent by the factory, no other particulars, whatsoever, is available to substantiate such a contention. This Court is of the view that, to prosecute a person for the alleged criminal offences, it must be established that safety measures have not been provided to the workers with a criminal intention and the workers have been compelled to work in an unsafe method. Whereas, the very complaint itself indicates that the worker was using gloves and belt and the accident took place while he was conversing

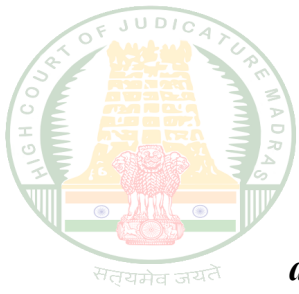


Crl.O.P.Nos.23543 & 25987 of 2025

with the other co-workers. Therefore, when the accident had occurred suddenly due to the distraction of the worker or due to his negligence, it cannot be said that safety measures were not in place.

11.Further, in response to the Show Cause Notice issued by the respondent, a reply has also been properly sent by the petitioners on 19.02.2024, wherein, it is stated by the petitioners that all the safety measures like sensors for safe interlocking, auto stop of machine, etc., have been put in place, however, the employee Vinoth Kumar had bypassed the methods and operated the machine during the tea-break. However, the said reply notice has not been taken into consideration and it has simply been rejected by proceedings dated 06.03.2024 without furnishing any reason. This Court, in ***L.Ganesh v. State of Tamil Nadu represented by Inspector of Factories [Crl.O.P.Nos.23034 & 23035 of 2015, dated 19.08.2019]***, has held as follows :

“18.The petitioners have given a detailed reply for the Show Cause Notice issued by the respondent. This reply has not been taken into consideration either at the time of granting sanction or at the time of filing of the complaint. This Court has already held that where a reply has been given to the Show Cause Notice, the said reply has to be considered and



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*dealt with at the time of filing of the complaint, failing which, the complaint itself becomes unsustainable on the ground of non application of mind. Useful reference can be made to the judgment of this Court in **K.Masthan Rao .Vs. State, rep. by Inspector of Factories, First Circle, Vellore reported in 2014 (3) MWN (Cr.) 86**. The relevant portions of the judgment is extracted hereunder:*

*“27. As pointed out earlier, the form 3A intimating notice of change of Deputy Chief Engineer, minutes of the Canteen Advisory Committee meeting, minutes of Safety Committee meeting, the report of examination of cranes, ropes, etc., building stability certificate were all forwarded to the respondent/complainant as well as the head of department. Thereafter, on 28.09.2012, another representation was made enclosing copy of the building stability certificate issued by the competent person and simultaneously requesting the Chief Inspector of Factories to nominate recognised persons for signing them stability certificate. Despite all these factual submissions, the complaints have been filed by the respondent verbatim repeating the allegations made in the show cause notice. **Surprisingly, there is no reference to the explanations submitted by the petitioners and as to how the petitioners have not complied with the deficiencies pointed out, as to how the same stand rectified and such other matters.** In the show cause notice dated 09.04.2012, it has been stated that on 22.03.2012, an inspection was conducted in the factory and the deficiencies, which were noticed in the course of inspection, were listed out as serial nos. 1 to 16 and the petitioners were called upon to explain as to why, prosecution should not be initiated against them by giving them seven days time to submit their explanation in writing, failure to avail the opportunity would be considered that there is no explanation to offer and*



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CrI.O.P.Nos.23543 & 25987 of 2025

*without further notice, action would be taken. **Therefore, the respondent/complainant being a statutory authority having provided for an opportunity to the petitioner to show cause ought to have considered the correctness of the proprietary of the explanations offered.***

*28. In terms of **Rule 102 of the Tamil Nadu Factory Rules, 1950**, the Occupier, Owner or Manager of a factory shall furnish information to an inspector for the purpose of satisfying himself whether any of the provisions of the Act have been complied with or whether any order of the Inspector has been carried out and any demand of such information, if made during the course of an inspection, shall be complied with forthwith or if made in writing, shall be complied with within seven days of receipt thereof. Thus, the rule contemplates an opportunity for compliance. If the respondent/complainant has pointed out certain contraventions and if the contraventions exist, the contravener is bound to comply with within seven days. The case on hand is slightly different in the sense that the petitioners have submitted their explanations showing cause in respect of the allegations made in the show cause notice. **In such circumstances, the respondent/complainant cannot ignore the reply to the show cause notice and proceed to lodge the complaint, as if he has not received any reply. ...***

*29. ... **Therefore, this Court has no hesitation to hold that the complaint is vitiated on account of total non-application of mind***".

(emphasis supplied)



Crl.O.P.Nos.23543 & 25987 of 2025

Even in this case, the reply given by the petitioners to the Show Cause Notice has been totally given a go-by and the prosecution has been launched. Be that as it may.

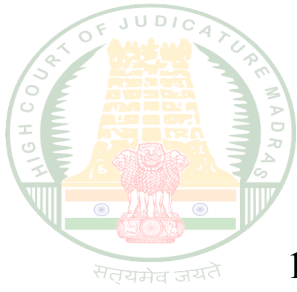
12.Further, admittedly, intimation about the accident has been given under Form-18 by the petitioners to the respondent on 29.12.2023 and the same is said to have been received before 10th January, 2024. Therefore, the respondent had acquired the knowledge about the accident even before 10th January, 2024. Though the Form-18 was sent as early as on 29.12.2023, the inspection has been carried out only on 24.01.2024. This Court is of the view that, as soon as Form-18 is received, the respondent has acquired the knowledge of the occurrence and the date of occurrence. In such cases, the prosecution ought to have been filed within three months from the date on which the alleged commission of offence came to the knowledge of the respondent. Whereas, e-filing of the complaint is made only on 18.04.2024 which is beyond the period of three months. Be that as it may. Even assuming that the complaint has been filed within the period of limitation, the entire complaint, when taken as such, would not constitute any offence, particularly when the accident had occurred purely due to the negligence on



Crl.O.P.Nos.23543 & 25987 of 2025

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the part of the employee while safety measures were put in place. Even the explanation offered by the petitioners in this regard has not been considered and the same has been mechanically rejected. Even if the entire complaint is taken as true, this Court is of the view that this is not a fit case to continue prosecution, as there is no material to show that there was no safety measures provided with a criminal intention and the workers were compelled to work in an unsafe condition. On the other hand, the complaint itself clearly indicates that the accident was solely due to the distraction of the worker as he was engaged in conversation with the other co-workers at the time of operating the machine. Therefore, this Court is of the view that the entire prosecution is nothing but a clear abuse of process of law and in the view of this Court, the complaint has been filed only for statistical purposes. Once the entire complaint does not constitute any offence, directing the parties to undergo the ordeal of criminal trial will, in fact, infringe the rights of the persons. Therefore, it is a fit case to be quashed by exercise of powers under Section 528 of BNSS.



Crl.O.P.Nos.23543 & 25987 of 2025

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13. Accordingly, these Criminal Original Petitions are allowed and the entire complaint in S.T.C.No.2637 of 2025 on the file of the Chief Judicial Magistrate, Coimbatore, is quashed. Consequently, connected miscellaneous petitions are closed.

18.09.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1. The Chief Judicial Magistrate,
Coimbatore.

2. The Deputy Director,
Industrial Safety and Health-II (Coimbatore),
S.F.No.575/2 575/3
Government Industrial Training Institute Campus,
G.N.Mills (Post), Mettupalayam Road,
Coimbatore – 641 029.

3. The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.



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Crl.O.P.Nos.23543 & 25987 of 2025

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Crl.O.P.Nos.23543 & 25987 of 2025

18.09.2025