IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

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BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.7906 OF 2020

BETWEEN:

1. SRI. SANJAY VARMA,
AGED ABOUT 56 YEARS,
S/O SURESH CHANDRA VARMA,
THE OCCUPIER AND FACTORY MANAGER,
M/S. MANGALORE REFINERY AND
PETROCHEMICALS LTD.,
P.O. KUTHETOOR VIA KATIPALLA,
DAKSHINA KANNADA,
MANGALURU-575030.

...PETITIONER

(BY SRI. ASHOK HARANAHALLI, SENIOR COUNSEL FOR
SRI. SRINIVASA RAO S.S., ADVOCATE)

AND:

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

1. STATE OF KARNATAKA,
BY DEPUTY DIRECTOR OF FACTORIES,
DIVISION -I, MANGALURU.
REPRESENTED BY SPP,
HIGH COURT BUILDING,
BENGALURU-560001.

...RESPONDENT

(BY SRI. SUHAS GOWDA M., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS AND ALL FURTHER INVESTIGATION IN C.C.NO.1615/2020 VIDE ANNEXURE-A REGISTERED AGAINST THE PETITIONER FOR OFFENCE PUNISHABLE UNDER SECTION 92 OF FACTORIES

ACT, PENDING ON THE FILE OF THE JUDICIAL MAGISTRATE FIRST CLASS (II COURT) MANGALURU, DAKSHINA KANNADA.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 13.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned High Court Government Pleader appearing for the respondent/State.

2. The prayer sought in this petition is to quash the initiation of criminal proceedings in C.C.No.1615/2020 registered against the petitioner for the offence punishable under Section 92 of the Factories Act, 1948, on the file of the Judicial Magistrate First Class (II Court), Mangalore, D.K., and grant such other relief as deemed fit in the circumstances of the case.

3. The factual matrix of the case of the complainant is that the petitioner M/s. Mangalore Refineries and Petrochemicals Ltd. (hereinafter referred to as MRPL) entered into a contract with M/s. Bridge and Roof Company India Ltd. for the purpose of carrying out the project of revamp work for upgradation of MRPL SWS units. The allegation made against

the MRPL is that violated and contravened with Section 38(1) of the Factories Act, which pertains to prevention of fire outbreak and also the petitioner did not take safety measures. Hence, it attracts Section 92 of the Factories Act.

4. The learned Senior Counsel appearing for the petitioner would vehemently contend that the petitioner had issued letter to M/s. Bridge and Roof Company India Ltd. stating that the contractor would be fully responsible for ensuring strict compliance with relevant statutory provisions and also to ensure that no accidents are caused due to the ignorance or negligence of contractors or his sub-contractors personnel. It is contended that on 01.07.2020 Sri Kamalesh Kumar and Sri Ram Sevak Mahto suffered burn injuries while undertaking maintenance work near the refinery sour water line at the MRPL. It is stated that in spite of all resuscitative measures, they could not be revived and was declared dead and spot inspection by the respondent was also conducted and show cause notice was issued on 15.09.2020 to the petitioner and detailed reply to the show cause notice was also submitted by the petitioner on 25.09.2020. The order by the respondent stating that reply is not satisfactory dated 28.09.2020 is challenged before the appellate authority under Section 107 of

the Factories Act, 1948 before the Department of Factories, Boilers and Industrial Safety and Health, Bangalore and the said appeal was also dismissed on 22.10.2020. But the respondent preferred a private complaint and the same is numbered as C.C.No.1615/2020 and the very taking of cognizance against the petitioner is erroneous and the learned Magistrate has committed an error in taking the cognizance and the very complaint is not maintainable and the order of taking cognizance is also without application of mind. The learned counsel would contend that the petitioner being the occupier and the factory manager of MRPL, which is a public sector undertaking, is a public servant and there is a bar contemplated under Section 197 of Cr.P.C. and without any sanction there cannot be prosecution.

5. The learned Senior Counsel would vehemently contend that there is no negligence on the part of the petitioner, which has resulted in untoward incident. The learned counsel would contend that the project of revamp work for upgradation of MRPL SWS units were awarded to M/s. Bridge and Roof Company (I) Ltd. under the supervision of Engineers India Ltd. (EIL) and for the execution of these project revamp jobs, M/s. Bridge and Roof Company (I) Ltd.

had sub-contracted a portion of the work/manpower supply to a company named M/s. Northern Construction Company. MRPL do not have any contract with M/s. Northern Construction Company. Prior to the commencement of work, the petitioner had issued a letter dated 24.09.2018 to M/s. Bridge and Roof Company India Ltd clearly stating that the contractor would be fully responsible for ensuring strict compliance with relevant statutory provisions and the agreed terms of the contract and also to ensure that no accidents are caused due to the ignorance or negligence of contractor or his sub-contractor personnel. The contractors shall adhere to permit work system at refinery which is a hazardous industry and even safety measurement training was also given to the workmen before their deployment from the job clearly making them aware of the hazards associated in working in a refinery as well as the various safety precautions to be adopted while carrying out jobs. The learned counsel also vehemently contend that when the show cause notice was given, reply was given and the same is not properly considered and erroneously held that the petitioner has contravened Section 7A(2)(c) of the Factories Act 1948, which pertains to providing such information, instruction, training and supervision as are necessary to ensure the health

and safety of all workers. The learned counsel also contend that the conclusion of the respondent that the petitioner has contravened with Section 38(1) of the Factories Act, 1948, which pertains to prevention of fire outbreak is erroneous. The learned counsel would vehemently contend that it is not on the part of the petitioner and they are also not the worker within the meaning of the factory and also it is not in dispute that the incident was taken place in manufacturing process. The learned counsel would vehemently contend that if any untoward incident is taken place, this petitioner is not responsible. The injured persons are not the employees of the factory and they are the employees of sub-contractor. Hence, Section 92 of the Factories Act will not attract against the petitioner. The learned counsel would vehemently contend that definition attracts only in respect of, if it is any manufacturing process, if any untoward accident is taken place. The contract is also not given to the sub-contractor and also not permitted to give any sub-contract to M/s. Northern Construction Company.

6. The learned counsel in support of his arguments relied upon the judgment of the Apex Court in the case of **SHRI CHINTAMAN RAO AND ANOTHER v. THE STATE OF MADHYA PRADESH** reported in **AIR 1958 SC 388** and

brought to the notice of this Court the discussion made in paragraph No.14, wherein it is held that Section 92 constitutes the contravention of any of the provisions of the Act or any rules made thereunder an offence punishable with imprisonment or fine or with both. The scheme of the aforesaid provisions indicates that the workmen in the factory are under the direct supervision and control of the management. The conditions of service are statutorily regulated and the management is to conform to the rules laid down at the risk of being penalised for dereliction of any of the statutory duties. The management obviously cannot fix the working hours, weekly holidays, arrange for night shifts and comply with other statutory requirements, if the persons like the Sattedars, working in their factories and getting their work done by others or through coolies, are workers within the meaning of the Act. It is well nigh impossible for the management of the factory to regulate their work or to comply with the mandatory provisions of the Act. The said provisions, therefore, give a clear indication that a worker under the definition of the Act is a person who enters into a contract of service under the management and does not include an independent contractor or his coolies or

servants who are not under the control and supervision of the employer.

7. The learned counsel also brought to the notice of this Court the discussion made in paragraph No.15 with regard to the definition of worker. It is observed that the only question raised and decided was whether the persons employed in repairing the machinery or putting up new machinery were persons engaged in any manufacturing process or any work incidental to or connected with it. The learned counsel also brought to the notice of this Court paragraph No.18, wherein it is held that neither the Sattedars nor the coolies found by the Inspector to be working in the factory were workers, as they were not employed by the factory. In paragraph No.19 it is held that as they were not workers, the non-inclusion of their names in the register of adult workers or the absence of any entries in regard to them in the said register would not constitute an offence under Section 92 of the Act.

8. The learned counsel also relied upon the judgment of the Apex Court in the case of **LANCO ANPARA POWER LIMITED v. STATE OF UTTAR PRADESH AND OTHERS** reported in **2016 (10) SCC 329** and brought to the notice of

this Court the discussion made in paragraph No.26, wherein it is held that insofar as the Factories Act is concerned, its preamble mentions that it is an Act to consolidate and amend the law regulating labour in factories. It is enacted primarily with the object of protecting workers employed in factories against industrial and occupational hazards. For that purpose, it seeks to impose upon the owners or occupiers certain obligations to protect workers unwary as well as negligent and to secure for them employment in conditions conducive to their health and safety. This Act also requires that the workers should work in healthy and sanitary conditions and for that purpose it provides that precautions should be taken for the safety of workers and prevention of accidents. Detailed provisions are, therefore, made in diverse chapters of the Act imposing obligations upon the owners of the factories to maintain inspecting staff and for maintenance or health, cleanliness, prevention of overcrowding and provisions for amenities such as lighting, drinking water, etc. Provisions are also made for safety of workers and their welfare, such as restrictions on working hours and on the employment of young persons and females, and grant of annual leave with wages. The learned counsel referring this judgment would vehemently

contend that in paragraph No.34, the Apex Court discussed with regard to the worker is concerned and the same is in respect of the employees of the factory and not in respect of the employees of sub-contractor.

9. The learned counsel also relied upon the order passed by this Court in **Crl.P.No.7340/2019** dated 15.07.2026 and brought to the notice of this Court paragraph No.15, wherein it is held that injured was not an employee of MRPL, but was employee of contractor. In **Chintaman Rao's** case, Hon'ble Supreme Court was examining whether employees of Sattedars would fall within definition of 'worker' under Section 2(l) of the Act. Observing that contractor would mean one who makes an agreement to carryout certain work was distinct from meaning of worker, who essentially subjects himself to control of employer, held contract worker would not fall within meaning of definition of 'worker' under Section 2(l) of the Act. Similar view is expressed in the case of **General Manager, U.P. Cooperative Bank Ltd. v. Achchey Lal and Another** reported in **2025 SCC OnLine SC 2096** and quashed the proceedings.

10. The learned counsel also relies upon the judgment of this Court in the case of **S. SURESH AND ANOTHER v. STATE OF KARNATAKA** reported in **2025 SCC OnLine KAR 25603**, wherein the coordinate bench of this Court considered the issue that primarily the work entrusted to an external agency was not in respect of the normal manufacturing process of the petitioner factory. It was a civil work entrusted for replacing the sugar bin feeding conveyor belt and therefore, invocation of the provisions of the Factories Act and/or the rules thereunder, would become suspect and allowed the petition and quashed the proceedings.

11. Per contra, the learned High Court Government Pleader appearing for the respondent/State would vehemently contend that the petitioner cannot take the defence that they were the employees of sub-contractor and taken note of Section 7A(2)(a) to (c) while considering the reply of the petitioner and passed an order. The learned counsel would contend that in the untoward incident, lives were lost and hence, the petitioner is liable to pay the compensation. The petitioner cannot wash the hands in contending that they are the sub-contractor employees and there was no any contract between the petitioner and the sub-contractor and admittedly,

the contract was entrusted to the main contractor and these are all the matters to be considered during the course of trial and not at the stage of initiation of the proceedings against the petitioner for contravention of the provisions and penal provision under Section 92 of the Factories Act is invoked and hence, there cannot be quashing of the proceedings.

12. Having heard the learned Senior Counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent/State and also considering the principles laid down in the judgments referred supra relied upon by the learned Senior Counsel for the petitioner, the points that would arise for the consideration of this Court are:

(i) Whether the petitioner has made out the ground to quash the proceedings initiated against him that there cannot be any prosecution against the petitioner in view of the contentions which have been raised?

(ii) What order?

Point No.(i):

13. Having heard the respective counsel, the prayer sought before this Court is quashment of proceedings in C.C.No.1615/2020 under Section 482 of Cr.P.C. for the

proceedings initiated against the petitioner for the offence punishable under Section 92 of the Factories Act, 1948. It is not in dispute that petition is filed by Occupier and Factory Managers of M/s. Mangalore Refineries and Petrochemicals Ltd. (for short 'M/s.MRPL') and it is also not in dispute that M/s.MRPL had entered into EPCM (Engineering, Procurement and Construction Management) contract with M/s. Engineers India Limited (for short 'M/s. EIL') for implementation of BS-VI Project at Mangalore. Under the said arrangement, M/s. EIL was entrusted with the responsibility of procuring services, supervising and managing the construction activities as the Project Management Consultant. In furtherance of the project, M/s. EIL engaged M/s. Bridge & Roof Company India Ltd. (B & R) to undertake mechanical construction work relating to revamp and upgradation of M/s. MRPL Sour Water Stripping (SWS) Units.

14. But, the main contention of learned Senior Counsel appearing for the petitioner is that sub-contract was given by M/s.EIL in respect of certain portions of the work to M/s. Northern Construction Company for execution of the project. It is the contention of the petitioner that, M/s. EIL and B & R were primarily responsible for supervision and implementation of the

work in accordance with the prescribed safety protocols and M/s. MRPL had no direct contractual relationship with M/s.Northern Construction Company, that means there was no contract between M/s. MRPL and M/s. Northern Construction Company.

15. It is also not in dispute that Sri Kamalesh Kumar and Sri Ram Sevak Mahto have sustained burn injuries while undertaking maintenance work near the refinery's Sour Water line within the premises of M/s. MRPL on 01.07.2020. The incident occurred during execution of the work relating to revamp and upgradation of SWS Units. The injured workmen were subsequently provided medical treatment. However, despite the resuscitative measures undertaken, Sri Ram Sevak Mahto, one of the injured could not be revived and was declared dead on 05.08.2020, after a month of the incident. Consequent upon the same, Deputy Director of Factories, Division-I, Mangalore visited the spot on 02.07.2020 and an inspection was conducted in connection with the accident and report was prepared in July, 2020. Thereafter, a show-cause notice dated 15.09.2020 was issued to the petitioner in relation to the alleged contravention of the provisions of the Factories Act, 1948 and the applicable rules. The petitioner submitted his

detailed reply on 25.09.2020 explaining his position and circumstances surrounding the incident. The said explanation was rejected by the respondent vide order dated 28.09.2020.

16. Being aggrieved by the same, the petitioner preferred an appeal under Section 107 of the Factories Act, 1948 before the Appellate Authority and the same was also rejected vide order dated 22.10.2020. But, in the meanwhile, a complaint was filed before the learned Magistrate on 20.10.2020 and cognizance was taken by registering a case in C.C.No.1615/2020. The very initiation of proceedings is challenged before this Court invoking Section 482 of Cr.P.C.

17. It is not in dispute that allegation against the petitioner is that work was being undertaken as part of revamp and upgradation of SWS Units. The only contention of the petitioner is that workmen were deployed by M/s. Northern Construction Company which had been engaged as a sub-contractor by M/s.Bridge & Roof Company India Limited and that M/s. MRPL had no direct contractual relationship with the sub-contractor. Hence, there cannot be any prosecution against the petitioner under Section 92 of the Factories Act, 1948. It is also not in dispute that when the work was undertaken,

applicable statutory provisions, safety procedures and permit-to-work requirements, and to ensure that accidents did not occur due to the negligence or non-compliance of the contractor or its sub-contractor also to be taken note of. But, it is the contention of petitioner that the contractor was also required to provide necessary safety training to the personnel deployed by it which was the condition prevailing when the contract was given and no dispute with regard to the said fact. It is also not in dispute that incident has taken place, as a result, two of them have sustained injuries and subsequently, medical aid was given.

18. It is the contention of the petitioner that the very case of the complainant that there was contravention of Section 38(1) of the Factories Act, 1948 and Rule 84 of the Karnataka Factories Rules 1969, are unsustainable. It has to be noted that Court has taken cognizance vide order dated 22.10.2020, but Factories Act is a Welfare and Social Protection Statute and its safety provisions are to be construed in favour of the worker.

19. It is relevant to note definition of Section 2(n) of the Factories Act, 1948 which defines 'occupier' and so also, Section 2(l) which defines 'worker' to include a person

employed, directly or through any agency (including a contractor), in any manufacturing process or in any kind of work incidental to or connected with it. But, the main contention of learned Senior counsel for the petitioner is that if any act is done by a person relating to manufacturing process, then a person would be considered as a 'worker' and it is the responsibility of the petitioner and the said argument of learned Senior counsel for the petitioner cannot be accepted and the Court has to take note of definition of Section 2(l) of Factories Act, 1948 which defines a 'worker'. So also, the Court has to take note of definition of Section 7A(1) of Factories Act, 1948 requires every occupier to ensure health, safety and welfare of all workers while at work in the factory and so also, Section 7A(2)(c) of Factories Act, 1948 requires the provision of such information, instruction, training and supervision as are necessary to ensure that health and safety. Section 38(1) of Factories Act, 1948 requires all practicable measures to prevent outbreak of fire and its spread, with safe means of escape and equipment for extinguishing it. But, provision under Section 92 of Factories Act, 1948 punishes contravention of the Act or Rules.

20. In keeping these relevant provisions, this Court has to take note of very contention of learned Senior counsel for the petitioner that petitioner-company is not in manufacturing process. But, the very definition under Section 2(l) of Factories Act, 1948 not only includes manufacturing process or any kind of incidental work connected to it. But, in the case on hand, it has to be noted that M/s. MRPL had started its functioning long back, but contract was given to the contractor relating to the revamp and upgradation of SWS units which is also an incidental work. Hence, the contention that it has not taken place during the course of manufacturing process cannot be accepted.

21. The question before this Court is with regard to order taking cognizance which is questioned and it is held in the judgment in **MEHMOOD UI REHMAN vs. KHAZIR MOHAMMAD TUNDA** reported in **(2015) 12 SCC 420,** wherein the Apex Court held that the order must reflect application of mind. It also held that a detailed reasoned order at that stage is neither necessary nor desirable. So also, in the case of **PEPSI FOODS LTD. vs. SPECIAL JUDICIAL MAGISTRATE** reported in **(1998) 5 SCC 749**, emphasized that summoning an accused is a serious matter, no dispute to

this aspect is concerned and while taking cognizance, the Court has to take note of material available on record and the same was taken note of by the Trial Court while passing an order taking cognizance.

22. The other contention urged by learned Senior counsel for the petitioner is that work was undertaken by M/s. Northern Construction Company and there is no previty of contract between M/s. MRPL and the sub-contractor and there was contract only between M/s. Bridge & Roof Company India Limited. The Court has to take note of material on record that there was a contract between M/s. EIL and B & R, who were primarily responsible and through letter dated 24.09.2018, M/s.MRPL shifted all liability to the contractor. This Court cannot accept the said argument at the threshold for the reason that duties under Section 7(A) and 38 and the Rules thereunder imposed on the Occupier, that means contract workers inside the factory are 'workers' under Section 2(l). The occupier's statutory responsibility is not discharged by contract. The parties cannot agree among themselves to avoid duties imposed for the protection of workers.

23. The Apex Court in **J. K. INDUSTRIES LTD. vs. CHIEF INSPECTOR OF FACTORIES AND BOILERS** reported in **(1996) 6 SCC 665**, wherein the Apex Court dealt with the structure of occupier liability in a company. It also held that liability under the Act attaches to the occupier as defined, and that the Act itself identifies the person made answerable. The documents which have been produced by M/s. MRPL is clear that the company kept control of the safety-critical functions. The operator of M/s. MRPL checked the system, closed the isolation valve, supervised draining and de-pressurization, and explained the job to the contractor's supervisor. The letter dated 24.09.2018 is clear with regard to allocation of responsibility between M/s. MRPL and its contractor. When such being the case, the very contention of learned Senior counsel for the petitioner cannot be accepted.

24. Learned Senior counsel for the petitioner relied upon judgment of the Apex Court in **SHRI CHINTAMAN RAO AND ANOTHER vs. STATE OF MADHYA PRADESH** reported in **AIR 1958 SC 388,** it is relevant to note that the said decision was rendered prior to amendment to Section 2(l) of the Factories Act, 1948, brought about by the Factories (Amendment) Act, 1976, with effect from 26.10.1976. By the

said amendment, the definition of "worker" was expressly enlarged to include a person employed directly or through any agency, including a contractor, with or without the knowledge of the principal employer. Therefore, the said decision, which considered the definition as it stood prior to the amendment, cannot be applied without reference to the amended statutory provision. In the present case, the mere fact that the deceased was engaged through a contractor or subcontractor would not, by itself, exclude him from the definition of "worker". It would nevertheless be necessary to examine whether the work undertaken by him was in a manufacturing process or was incidental to or connected with the manufacturing process, as contemplated under Section 2(l) of the Act. The said judgment will not come to the aid of the petitioner, since the said judgment is prior to amendment to Section 2(l) of the Factories Act, 1948 and the said amendment was brought in the year 1976, subsequent to the judgment of the Apex Court.

25. Learned Senior counsel for the petitioner has also relied upon judgment of the Apex Court in ***LANCO ANPARA POWER LTD. vs. STATE OF UTTAR PRADESH*** reported in ***(2016) 10 SCC 329***. The said decision is distinguishable on the factual context in which the question arose, namely,

construction activity undertaken before commencement of manufacturing operations in the facility concerned. In the present case, the work in question relates to revamp and upgradation of SWS Units forming part of an existing refinery. The material question is whether such work was incidental to or connected with the manufacturing process carried on in the factory. The mere fact that the concerned unit was undergoing revamp or that its operations were temporarily suspended for such purpose would not, by itself, be determinative of the applicability of the Act.

26. It is relevant to take into consideration that this Court distinguished the said judgment in **CRL.P.NO.5671/2021** vide order dated 01.10.2018, particularly in paragraph No.12, this Court discussed the factual aspects of the said case and in the said case, the deceased was engaged in construction of STP-Sewerage lines which was purely a civil work unconnected with the manufacturing activity. The deceased was also not engaged in the manufacturing process. The deceased was working under the sub-contractor M/s.Tunga Bhadra Services. The work of the deceased was not related or incidental to or proximate to the manufacturing process. In paragraph No.13, this Court

discussed with regard to applicability of the said judgment, wherein in the said judgment, distinguished that at the relevant time no manufacturing operation had commenced by the appellants therein. The appellants were in the process of construction of civil works/factory buildings etc., wherein they had planned to set up their factories. As the process of construction of civil works was undertaken by the appellants wherein construction workers were engaged, the respondent authorities took the view that the provisions of the aforesaid Acts which were meant for construction workers became applicable. In the said backdrop, considering the legislative intent of BOCW Act and the Factories Act, extracted paragraph No.34. In paragraph No.14, even extracted definition of Section 2(l) and in paragraph No.16, held that as per the said definition, even a person who is employed through an agency including a contractor either in any manufacturing process or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, would bring the said person within the said definition. The workers who actually work on the machines, no doubt are employed in the manufacturing process, but the definition includes, workers

employed "in any other kind of work incidental to or connected with the manufacturing process". The same is also explained by the Bombay High Court in **UNION OF INDIA AND ANOTHER vs. ARUN VITHAL BONDE** reported in **2010 (3) Mh.L.J. 447,** wherein it is held that "the ambit of these words is very wide and must necessarily include those who are not employed in the manufacturing process. The work may be entirely different. It must, however, be incidental to or connected with it. Hence, the Court has to take note of definition of Section 2(l) which is amended and the judgment of this Court referred supra goes against the petitioner.

27. This Court would like to rely upon judgment of Jammu and Kashmir High Court in **JUTHI DEVI vs. PINE CHEMICALS LTD. AND ANOTHER** reported in **(1991) 2 LLJ 386,** wherein the Court also held that the applicability of the beneficial legislation could not be denied merely because actual manufacturing had not commenced. The Court observed that nature, intention and purpose of the industrial activity were relevant, and that workers would not lose statutory production merely because production had not started or had temporarily stopped. The Court emphasized that the process could commence with effective steps towards the contemplated

manufacturing activity and need not depend upon the successful production of the finished product.

28. The Court has to take note of factual aspects of the present case. The work was entrusted to contractor relating to revamp and upgradation of SWS Units to M/s. MRPL which forms part of the refinery's and industrial operations. The work was intended to modify and improve the facilities associated with the refining process. It is also to be taken note of that relevant unit was temporarily shut down to facilitate revamp work and that would not, by itself, severe the connection between work undertaken and the refinery's manufacturing activities. The contention that Factories Act, 1948 ceased to apply merely because manufacturing operations had temporarily stopped cannot, therefore, be accepted without examining the nature and purpose of the work. Hence, the contention of learned Senior counsel for the petitioner cannot be accepted that the said work is not in connection with manufacturing process and the definition is wider than the very contention raised by learned Senior counsel for the petitioner.

29. Learned Senior counsel for the petitioner also relied upon judgment of this Court in **S. SURESH AND ANOTHER**

vs. STATE OF KARNATAKA REP. BY THE SPECIAL PUBLIC PROSECUTOR reported in **2025 SCC ONLINE KAR 25603** and the said judgment also will not come to the aid of petitioner and the Court has to consider in the context of nature of work and the allegations in the case on hand. In the present case, the work concerned is relating to revamp and upgradation of existing SWS Units at an operating refinery. If the material on record establishes a connection between the work and the refineries manufacturing process, the mere fact that work was entrusted to a contractor would not, by itself, warrant quashing of the proceedings.

30. So also, in the case in **SRI M. VENKATESH AND ANOTHER vs. STATE OF KARNATAKA** passed in **CRL.P.NO.7340/2019** dated **15.07.2026** which was relied upon by learned Senior counsel for the petitioner, the applicability of the said decision to the present case depends upon whether the complaint herein specifies the statutory obligations allegedly breached and the factual basis for such violations. The decision must also be considered in light of its interpretation of Section 2(l) of the Factories Act and the definition under Section 2(l) is very wide. The defences on contractor responsibility, foreseeability and causation are

defences to be proved at trial, where the burden under Section 104A will govern. The limitation question under Section 106 is also left to the Trial Court as an issue to be considered since the limitation involves mixed question of fact and law and the same to be considered only after considering the matter on merits.

31. Having considered the material available on record in toto, the very contention of learned Senior counsel for the petitioner that there cannot be any proceedings under Section 92 of the Factories Act, 1948 against the petitioner cannot be accepted considering the discussion made above elaborately that the victims are not the employees of M/s. MRPL and they are the employees of sub-contractor in view of work undertaken by the occupier. The other contention that it was not at the time of manufacturing process also cannot be accepted in view of detailed discussion made, including other incidental work.

32. The other contention that there was no contract between the sub-contractor and M/s. MRPL also cannot be accepted and so also, the Court has to look into the provisions of Section 7A 2(c) as well as Section 38 and the contention that

they were not in the manufacturing process also cannot be accepted and already the explanation given by the petitioner was rejected by the Appellate Authority when the appeal was filed and the grounds which have been urged before this Court is kept open to be raised during the course of trial and not at the stage of taking cognizance in respect of the offence under Section 92 of the Factories Act, 1958. Accordingly, I answer point No.(i) as 'negative'.

Point No.(ii)

33. In view of the elaborate discussion made above, I pass the following:

ORDER

The criminal petition is ***dismissed.***

Sd/-
(H.P.SANDESH)
JUDGE

MD/ST