



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 23.02.2026

DELIVERED ON: 24.04.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P. Nos.26475, 26594, 26438 and 26504 of 2025
and

Crl.M.P. Nos.17993, 17974, 18015 and 18046 of 2025

V.R. Rambhad

Occupier

Heavy Vehicles Factory

Unit of Armoured Vehicles Nigam Ltd. (TVR 00767)

Survey No.485, 498/1, 198/2

Door No.HVF, HVF Road

Avadi, Chennai 600 054

Petitioner in Crl.O.P.Nos.26475 & 26594/2025

Jay Prakash Singh

Manager

Heavy Vehicles Factory

Unit of Armoured Vehicles Nigam Ltd. (TVR 00767)

Survey No.485, 498/1, 198/2

Door No.HVF, HVF Road

Avadi, Chennai 600 054

Respondent in Crl.O.P.Nos.26438 & 26504/2025

vs.

The Tamil Nadu State represented by

the Deputy Director

Industrial Safety and Health

No.6/11 & 6 /12, Lal Bhagadur Sastri Street

II Floor, Periyakuppam

Tiruvallur 602 001

Respondents in all 4 Crl.O.Ps.

Crl.O.P. Nos.26475 and 26594 of 2025 filed under Section 528 of the
Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in



C.C.Nos.283 and 285 of 2024 respectively on the file of the Chief Judicial Magistrate Court, Tiruvallur, and quash the same.

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Crl.O.P. Nos.26438 and 26504 of 2025 filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C. Nos.282 and 281 of 2024 respectively on the file of the Chief Judicial Magistrate Court, Tiruvallur, and quash the same.

For petitioner in
all 4 Crl.O.Ps.

Mr. P.T. Ramkumar

For respondent in
all 4 Crl.O.Ps.

Mr. K.M.D. Muhilan
Additional Public Prosecutor

COMMON ORDER

In view of commonality of issues involved, all the four criminal original petitions are considered and decided by this common order.

2. A bird's eye view of the facts that led to the filing of the present four criminal original petitions is as under:

2.1. While the petitioner in Crl.O.P. Nos.26475 and 26594 of 2025 (Rambhad) is an Occupier in the Heavy Vehicles Factory which is a unit of Armoured Vehicles Nigam Ltd., the petitioner in Crl.O.P.Nos.26438 and 26504 of 2025 (Jay Prakash Singh) is a Manager in the same organisation.



2.2. On 23.08.2023 at 10.00 a.m., on a joint inspection made by the Joint Director and Deputy Director, Industrial Safety and Health, Tiruvallur, it was found that the trenches located in the turret shop, overhaul assembly shop, general assembly shop and forge shop were not securely covered which may cause risk of bodily injury to the workers employed there. It was further found that the floors of the forge shop area were not properly maintained which may lead to workers getting slipped eventually leading to fall injury. Hence, for these alleged offences, the petitioners were charged under Sections 33(1) and 32(a) respectively of the Factories Act, 1948 (for brevity “the Act”) and the Tamil Nadu Factories Rules, 1950 (for brevity “the Rules”).

2.3 Likewise, on the said inspection, it was further found that the horizontal machining centre was not securely fenced in order to protect the safety of the workers employed there. It was also found that all the workers employed in the forge shop and overhaul assembly shop, where the noise level exceeds the maximum permissible exposure levels specified, were not subjected to auditory examination by the certifying surgeon within 14 days of their first employment and were not re-examined at least once in every 12 months. Hence, for these alleged offences, the petitioners were charged under Section 21(1)(iv) (c) of the Act and Section 87 of the Act and Rule 95 Schedule XXVIII Part A Item 3(6)(b) of the Rules, respectively.



2.4 Hence, separate notices dated 11.09.2023 were issued to the petitioners to show cause as to why they should not be prosecuted for the alleged irregularities. In response, while Rambhad gave his reply to the show cause notice on 13.10.2023, Jay Prakash Singh gave his reply on 14.10.2023.

2.5 However, not satisfied with their replies, the respondent filed four complaints before the Chief Judicial Magistrate Court, Tiruvallur (for brevity “the Trial Court”), *i.e.*, two separate complaints against the petitioners for the offences under Sections 33(1) and 32(a) of the Act, and two separate complaints against them for the offences under Sections 21(1)(iv)(c) of the Act and Section 87 of the Act and Rule 95 Schedule XXVIII Part A Item 3(6)(b) of the Rules. In each of the complaints, invoking Section 92 of the Act, the petitioners were levied with the minimum fine of Rs.5,000/-.

2.6 While the two complaints filed against Rambhad were taken on file by the Trial Court as C.C. Nos.283 and 284 of 2024, the two complaints filed against Jay Prakash Singh were taken on file by the Trial Court as C.C. Nos.282 and 281 of 2024, respectively.

2.7 The aforesaid four proceedings are put to challenge in the present four criminal original petitions by the two accused.



3. The submissions made by Mr. P.T. Ramkumar, learned counsel for the petitioners are as under:

3.1. As per Section 106 of the Act, a complaint has to be presented within three months from the date of knowledge of the alleged commission of the offence. In the case on hand, the respondent got the knowledge of the alleged offences on 23.08.2023, the date of the first inspection. Even if it is considered that the respondent got the knowledge of the alleged offences only on the date of the second inspection *i.e.*, 07.11.2023, since the complaints have been filed only 26.03.2024, as could be seen from the details uploaded by the Trial Court, which is after the period of limitation of three months, the complaints are barred by limitation.

3.2. The petitioners being Group I officers are employees of the Union of India appointed by the Ministry of Defence, Government of India, who cannot be removed from service without prior sanction from the Central Government, can be prosecuted for any offence only after getting prior sanction from the Central Government as required under Section 197 Cr.P.C. and in the cases on hand, the complaints were filed sans the said sanction from the Central Government. In **K.Masthan Rao vs. State by Inspector of Factories, I Circle,**



Vellore¹, a Coordinate Bench of this Court has held that a prosecution against a public servant sans prior sanction under Section 197 Cr.P.C. cannot be sustained and this decision has been followed by other Coordinate Benches of this Court in (i) **N. Shashi Bushan vs. the Deputy Director, Industrial Safety and Health – I, Thiru.Vi.Ka. Industrial Estate, Guindy, Chennai-32²**, (ii) **P. Ravindra Babu vs. Deputy Director, Thiru.Vi.Ka. Industrial Estate, Guindy, Chennai-32³**, (iii) **R. Janani Soundarya vs. The Deputy Director, Industrial Safety & Health – I, Madurai⁴** and (iv) **V.M. Govindharajan vs. Deputy Director-I (Industrial Inspector), Industrial Safety and Health, Thiru.Vi.Ka. Industrial Estate, Guindy, Chennai – 32⁵**.

3.3. There is not even a whisper in the complaints about the replies submitted by the petitioners in response to the show cause notices issued to them, which only goes to show that the complaints have been filed in a mechanical and routine manner, without considering the petitioners' replies and this crucial aspect of nonapplication of mind on the part of the respondent vitiates the prosecution launched against the petitioners. In a Coordinate Bench decision in **K. Masthan Rao, supra**, it has been categorically held that a complaint cannot be filed ignoring the reply to the show cause notice and this

¹ 2015-1-L.W. (Crl.) 254

² Crl.O.P. No.8754 of 2014 decided on 06.03.2019

³ Crl.O.P. No.6885 of 2015 decided on 11.03.2020

⁴ Crl.O.P.(MD) No.14788 of 2021 decided on 16.11.2021

⁵ Crl.O.P. No.14298 of 2021 decided on 15.11.2022



decision has been followed by at least two Coordinate Benches of this Court in **Toshihiko Sano vs. The Tamil Nadu State represented by Deputy Director, Industrial Safety and Health, I Circle, Kancheepuram 602 105⁶** and **Sathish Hebber R. vs. The State represented by Deputy Director, Industrial Safety & Health, Hosur, Krishnagiri⁷**.

4. *Per contra*, Mr. K.M.D. Muhilan, learned Additional Public Prosecutor appearing for the respondent, made the following submissions:

4.1 The complaints were filed on 21.11.2023 as is evidenced on the website of the Trial Court which is well within the limitation period of three months and not on 26.03.2024 as contended by the learned counsel for the petitioners. Further, under the e-filing system, a complaint is considered to have been filed once it is uploaded and hence, the petitioners cannot be heard to contend that the complaints are barred by limitation.

4.2 Though there are 14 violations set out in the show cause notices issued to the petitioners, the complaints were filed only in respect of 2 violations which itself is a testimony for consideration of the petitioners' replies with due application of mind.

⁶2023-1-L.W. (Crl.) 347

⁷Crl.O.P. No.17189 of 2021 decided on 23.06.2023



4.3 The appointment of Managers and Occupiers in Heavy Vehicles Factory is not through the Union Public Service Commission but by the factory directly and hence, prior sanction from the Central Government under Section 197 Cr.P.C. is not a *sine qua non*.

5. Heard both sides and perused the materials available on record.

6. As delineated above, though both sides argued on the point of limitation, consideration/non-consideration of replies to the show cause notices, in the opinion of this Court, the most seminal question that needs to be addressed first is, whether prior sanction under Section 197, Cr.P.C. ought to have been obtained by the respondent before prosecuting the petitioners.

7. The stand of the respondent in this regard is that inasmuch as there is ambiguity *qua* appointment and relieving authority of the petitioners, Section 197 Cr.P.C. may not be applicable.

8. In the decision of a Coordinate Bench of this Court in **All India Defence Employees Federation (AIDEF) and another vs. Government of India, Ministry of Defence and another**⁸, the respondents therein have filed their reply to the rejoinder filed by the petitioner therein limpidly stating that the

⁸W.P. No.19674 of 2021 decided on 29.07.2024



employees of erstwhile Ordnance Factory Board, on deemed deputation to the newly formed seven Defence Public Sector Undertakings, would continue as Central Government servants and their pay scales, allowances, leave, medical facilities, carrier (*sic* career) progression and other service conditions will continue to be governed by the extant Rules, Regulations and orders as are applicable to Central Government employees, and this has been captured at paragraph 6 of the said decision.

9. Incontrovertibly, in the cases on hand, the petitioners herein are employees of Heavy Vehicles Factory, which is a unit of Armoured Vehicles Nigam Ltd. and it is also beyond cavil that Armoured Vehicles Nigam Ltd. is one of the newly established Defence Public Sector Undertakings, as could be seen from the material submitted by the learned Additional Public Prosecutor himself. The said material further goes on to describe Armoured Vehicles Nigam Ltd. as a Government of India enterprise. That apart, the appointment order dated 11.04.2000 issued to the petitioner in Crl.O.P.Nos.26438 & 26504/2025 states unequivocally that the President of India offers the post of Assistant Works Manager (Prob) Engineer, a Class I Gazetted post in the Indian Ordnance Factories Service (IOFS), Ministry of Defence. The appointment order further adds that the petitioner will be governed by various rules and regulations applicable to Central Government employees. To cap it all, in as many as five cases enumerated at paragraph 3.2, *supra*, Coordinate Benches of



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this Court, right from the year 2014 till the year 2022, have held consistently that prosecution of Central Governments employees sans prior permission under Section 197 Cr.P.C. cannot be sustained. Superadded, it has also not been brought to the notice of this Court that either of these decisions has been carried on appeal. Though not very important, this Court notices that in **Ravindra Babu, supra**, **Govindharajan, supra**, **Toshihiko Sano, supra** and **Masthan Rao, supra**, the petitioners are either Manager / Occupier of the respective factories, as in the cases on hand. *Ergo*, the five decisions about which there is allusion in paragraph 3.2, *supra*, *qua* sanction under Section 197 Cr.P.C. apply on all fours to the cases on hand.

10. The learned Additional Public Prosecutor pressed into service two judgments of the Supreme Court, to contend that sanction under Section 197 Cr.P.C. is not required under certain circumstances and this Court proceeds to deal with each one of them.

11. In **Nanjappa vs. State of Karnataka**⁹, it was held that in case of “invalid sanction”, the Trial Court cannot pass an order of acquittal. To be noted, admittedly, the cases on hand are not ones of “invalid sanction” but ones of “no sanction”. Hence, the reliance on **Nanjappa, supra**, placed by the learned Additional Public Prosecutor is misplaced.

⁹(2015) 14 SCC 186



12. In **Punjab State Warehousing Corporation vs. Bhushan Chander**¹⁰, it was held that in case of an omission or commission which is totally alien to the discharge of the official duty, sanction is not required. In the instant cases, it is not the case of the respondent even that omission on the part of the petitioners has no nexus with their work. Hence, this decision also will hardly be of any avail to the respondent.

13. While holding that the aforesaid two decisions of the Supreme Court are factually distinguishable and hence, cannot come to the aid of the respondent, this Court reminds itself of the sagely and sapient observation in the Constitution Bench judgment of the Supreme Court in **Padma Sundara Rao (dead) and others vs. State of Tamil Nadu**¹¹ on the law of precedents and the same reads thus:

“9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in *Herrington v. British Railways Board* [(1972) 2 WLR 537 : 1972 AC 877 (HL) [Sub nom *British Railways Board v. Herrington*, (1972) 1 All ER 749 (HL)]]. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.”

(emphasis supplied by this Court)

¹⁰(2016) 13 SCC 44

¹¹(2002) 3 SCC 533



14. Thus, when it is amply clear as day light that the petitioners are Central Government employees, this Court holds, without even an iota of hesitation, that the respondent ought to have got prior sanction as mandated under Section 197 Cr.P.C., as has been held in a slew of decisions adverted to earlier.

15. Having decided that the respondent ought not to have prosecuted the petitioners sans prior sanction as mandated under Section 197 Cr.P.C., it becomes redundant for this Court to delve into the other aspects, viz., whether the complaints filed by the respondent are barred by limitation and whether the respondent considered the replies given by the petitioners to the show cause notices, inasmuch as, in the event of this Court venturing into dealing with the said aspects, it will be only an exercise in futility and hence, on the short and limited point that the prosecutions against the petitioners are vitiated for want of prior sanction under Section 197 Cr.P.C., the impugned proceedings pending against the petitioners have to be held as an abuse of process of law and accordingly, they are held so.

16. In the light of the foregoing discussion, the impugned proceedings have to suffer quashment and they are accordingly quashed.



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17. *Ex consequenti*, all the four criminal original petitions stand allowed. Connected criminal miscellaneous petitions stand closed.

24.04.2026

cad

To

The Deputy Director
Industrial Safety and Health
No.6/11 & 6 /12, Lal Bhagadur Sastri Street
II Floor, Periyakuppam
Tiruvallur 602 001



Crl.O.P. Nos.26475, 26594, 26438 and 26504 of 2



A.D. JAGADISH CHANDIRA, J.

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Common order in
Crl.O.P. Nos.26475, 26594, 26504 and 26438 of 2025

24.04.2026