
(2022) 02 JH CK 0011

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 215 Of 2015

Chittaranjan Choudhary

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 09-02-2022

Acts Referred:

Contract Labour (Regulation And Abolition) Act, 1970 — Section 7, 9, 23, 25, 27

Citation : (2022) 02 JH CK 0011

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Ashim Kumar Sahan, Md. Hatim

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to

COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been

heard.

2. This petition has been filed for quashing the order dated 17.07.2013 passed by the learned Chief Judicial Magistrate, Dhanbad in Contract Labour

(Regulation and Abolition) Act, 1970 Prosecution Case No.234 of 2013 whereby cognizance has been taken under section 23 and 24 of the said Act,

pending in the court of learned Judicial Magistrate, 1st Class, Dhanbad.

3. The complaint was filed stating therein that on 23.04.2013 the complainant inspected the premises of the establishment and found violation of

sections 7 and 9 of the Contract Labour (Regulation and Abolition) Act, 1970 as

there had been engagement of more than 20 workers through different unregistered contractors and there was no display of notice containing the rates of wages, hours of work, wages period, date of payment of wages, etc. and that is why notice was issued to the company.

4. It has been argued on behalf of the petitioner that occurrence took place on 23.04.2013 and the complaint was filed on 17.07.2013 which is barred under section 27 of the said Act. It has been further argued that if the company is offender in the light of section 25 of the said Act, only the persons who are looking after the day to day affairs of the company will be liable to be punished. It has been further submitted that the petitioner was Deputy Manager of the company namely, Steel Authority of India Limited (SAIL). On this ground, it has been submitted that the entire proceeding including the order taking cognizance is liable to be quashed.

5. Mr. Hatim, the learned counsel appearing on behalf of the respondent State submits that in the enquiry there is violation of the rules and the sections and that is why the complaint has been filed.

6. It is an admitted fact that inspection was made on 23.04.2013 and the complaint was filed before the learned Chief Judicial Magistrate, Dhanbad on 17.07.2013. Section 27 of the said Act, for the ready reference, is quoted hereinbelow:

â??27. Limitation of prosecutions.-No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from 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.â??

7. On perusal of section 27 of the said Act, it is crystal clear that the complaint was required to be filed within three months. The case of the petitioner is not coming under the proviso of the said section. Thus, on this ground alone, this petition is fit to be allowed. Moreover, in view of section 25 of the said Act, the person who is looking after the day to day affairs of the company or the Director are liable to be punished. There is no averment in the petition that who is looking after the day to day affairs of the company. The company is not made party in the complaint. There is complete violation

of section 25 of the said Act.

8. Accordingly, the impugned order dated 17.07.2013 passed by the learned Chief Judicial Magistrate, Dhanbad including the entire proceeding

pending in the court of learned Judicial Magistrate, 1st Class, Dhanbad in connection with Contract Labour (Regulation and Abolition) Act, 1970

Prosecution Case No.234 of 2013 are quashed.

9. Cr.M.P.No.215 of 2015 is allowed and disposed of.