

(1965) 12 MAD CK 0001
In the Madras High Court
In re: Basha Khan

Date of Decision : 07-12-1965

Acts Referred:

Factories Act, 1948 — Section 2, 7, 92

Citation : AIR 1966 Mad 343 : (1966) 1 LLJ 707

Hon'ble Judges : R. Sadasivam, J

Bench : Single Bench

Judgement

R. Sadasivam, J.—The petitioner, Basha Khan, has been convicted u/s 92 of the Factories Act for violation of Rule 100(2) of the rules

framed under the Factories Act and sentenced to pay a fine of Rs. 25, in default to simple imprisonment for one week. The charge against the

petitioner was that as manager of the Basha Khan rice mills, 83, Bazar Street, Athur, he had failed to furnish on or before 31 July 1964, the half-

yearly return in form 22 for the half-year ending with 30 June 1964. The defence of the petitioner was that by virtue of a registered lease deed, Ex.

D. 1, dated 1 March 1962, he had leased the rice mill and entrusted the management of the mill to the lessees. The petitioner examined D.W.I,

Venkatakrisnan, one of the lessees, In support of his case.

2. The learned District Magistrate has negatived the plea of the petitioner as he doubted whether Ex. D. 1 had been acted upon at all; but the

reasons given by him for doubting Ex. D. 1 are hardly convincing. The first reason is that the petitioner failed to send a reply to the show-cause

notice. Even in a civil suit this would not justify the inference that Ex. D. 1 is not true. The second reason is that the book in which the Labour

Inspector had made a remark, has not been produced. If the petitioner was not an occupier or manager of the mills, he could not be expected to

produce the book. The third and last reason mentioned in the District Magistrate's order is that the petitioner did not take steps to inform the Factory Inspector, that management of the mill had gone to the lessees in pursuance of Ex. D. 1, But here again, the duty cast is only on the occupier as defined in Section 2(n) of the Factories Act to send notice mentioned in Section 7 of the Act, furnishing the particulars mentioned therein including the name of the manager for the purpose of the Act. It is an undisputed fact that the petitioner is the owner of the rice mills. But he had leased the mills under Ex. D. 1 and was receiving the rent every month, The lessees would, no doubt, be occupiers within the meaning of Section 2(n) of the Act, as they have ultimate control over the affairs of the mills. If they fail to comply with the provisions of Section 7 of the Factories Act, they could be proceeded against for such default. If, however, they complied with the provisions of Section 7 of the Factories Act and gave the name of the manager, that person could be proceeded against for violation of the Rule 100(2) of the rules framed under the Act. The conviction and the sentence of fine imposed on the petitioner cannot, therefore, be sustained and they are set aside, and the fine, if collected, is ordered to be refunded to the petitioner. The petitioner is acquitted.