
(2006) 11 MP CK 0049
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 7275 of 2002

Mohammad Safeq

APPELLANT

Vs

Inspector Labour

RESPONDENT

Date of Decision : 13-11-2006

Acts Referred:

Child Labour (Prohibition and Regulation) Act, 1986 — Section 14(1), 3
Criminal Procedure Code, 1973 (CrPC) — Section 468(2)(B), 482

Citation : (2007) 2 MPJR 38

Hon'ble Judges : Sushma Shrivastava, J

Bench : Single Bench

Advocate : Sudeep Deb, Panel Lawyer for respondent No. 2/State, for the Respondent

Judgement

Smt. Sushma Shrivastava, J.

None is appearing for the petitioner. This is an old case. Hence, heard on the petition.

This is a petition u/s 482 of Cr.P.C. seeking quashment of the proceedings instituted against the petitioner and pending before the Court of Judicial Magistrate First Class, Begumganj, District Raisen u/s 14(1) of The Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter to be referred as Act).

The petitioner was prosecuted u/s 14(1) of the Act on the basis of the complaint filed by respondent no. 1 before the Court by Judicial Magistrate First Class, Begumganj, Raisen alleging that on 10/4/1997 the petitioner had employed a child under 14 years of age for Bidi making in violation of the section 3 of the Act. The criminal complaint was filed against the petitioner before the Court on 16/2/1999 in respect of the offence u/s 14(1) of the Act allegedly committed on 10/4/1997. The cognizance of the case was taken against the petitioner on 16/2/1999 and particulars of the offence u/s 14(1) of the Act were explained to the petitioner on 8/7/2002. The petitioner had denied the commission of the

offence.

It is contented in the petition, that the offence u/s 14(1) of the Act is punishable with imprisonment which may extend to one year. The period of limitation provided for taking cognizance of the offences punishable with one year u/s 468(2) (B) of Cr.P.C. is one year. But the complaint against the petitioner u/s 14(1) of the Act in respect of the offence allegedly committed on 10/4/1997 was filed before the court on 16/2/1999 after the expiry of the prescribed period of one year. Therefore, the cognizance of the offence u/s 14(1) of the Act after the prescribed period of limitation was barred u/s 468 of Cr.P.C.

As no opportunity for hearing was given to the petitioner at the time when the particulars of the offence were stated to him, he could not raise the point of limitation before the trial Court. Petitioner however, raised this point by way of revision before the Sessions Court, but his revision was dismissed on the ground that the objection as to limitation was not taken before the trial Court. Hence petitioner has invoked the jurisdiction of this Court u/s 482 of Cr.P.C. seeking quashment of the proceedings instituted against him and pending as criminal Case no. 389/01 before the court of judicial Magistrate First Class, Begumganj, District Raisen.

The learned Counsel for the respondent no.2/State has not disputed that the complaint u/s 14(1) of the Act against the petitioner in respect of the offence allegedly committed on 10/4/1997, was filed before the Court after the expiry of prescribed period of limitation of one year.

The learned counsel for the respondent no.2/State also conceded that the offence u/s 14(1) of the Act being punishable with one year and in view of the Bar created u/s 468 of Cr.P.C, the court could not take cognizance of the offence u/s 14(1) of the Act against the petitioner after the expiry of one year.

It also does not appear from the certified copies of the various order sheets filed with the petition that delay in filing the complaint was in any way explained by the complainant/respondent no. 1. The various order sheets do not make any reference either to section 468 or 473 of the Criminal Procedure Code.

In view of the aforesaid facts and in view of the provisions of Section 468 of Cr.P.C, the trial court could not take cognizance of the offence u/s 14(1) of the Act against the petitioner after the expiry of the period of limitation of one year prescribed u/s 468 (2) (B) of Cr.P.C. for such offences. It was thus an abuse of the process of the Court.

As reiterated by the Apex Court in the case of Zandu Pharmaceutical Works Ltd. and Others Vs. Md. Sharaful Haque and Others, inherent power of the court can be and should be exercise u/s 482 of Cr.P.C. when it manifestly appears that there is a legal bar engrafted in any of the provisions of the Code or the Act concerned to the institution and continuance of the proceedings.

Accordingly, it is a fit case where the proceedings instituted against the petitioner

after the prescribed period of limitation provided u/s 468(2) (B) of Cr.P.C. should be quashed in view of the legal bar created by Section 468 of the Criminal Procedure Code.

Resultantly, the proceedings instituted against the petitioner and pending against him u/s 14(1) of the Act in Court of Judicial Magistrate First Class, Begumganj, Raisen in concerned criminal case are hereby quashed.

This Mc.R.C.stands closed.