

(1990) 12 MAD CK 0038

In the Madras High Court

Case No : Criminal M.P. No's. 6787, 6789, 6791, 6793, 6795, 6797, 6799, 6801 to 6857 of 1988

M/s Meenakshi Industries Singanallur Coimbatore and another **APPELLANT**
Vs

G. Guruswamy **RESPONDENT**

Date of Decision : 04-12-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 13

Citation : (1992) CriLJ 2115

Hon'ble Judges : Janarthanam, J

Bench : Single Bench

Advocate : Mr. C.R. Sathiadran, for the Appellant; Mr. V. Vibhishanan, for the Respondent

Judgement

1. The petitioners and the respondent are the same in all these petitions. The question to be decided is also the same. Hence all these are disposed

of by a common order.

2. These petitions are filed invoking the inherent jurisdiction of this court u/S. 482 of the Code of Criminal Procedure to quash the proceedings

initiated against the petitioners in C.C. Nos. 309 to 344 of 1988 on the file of the Additional Judicial First Class Magistrate, Coimbatore.

3. The Circumstances that led up to the filing of all these petitions may succinctly be stated : Petitioner No. 1 is M/s. Meenakshi Industries, situate

at No. 1, Aerodrome Road, Singanallur, Coimbatore-041005. Petitioner No. 2 is its Managing Partner. Petitioner No. 1 concern is an

establishment coming within the meaning of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952 for short

"the Act") and the Employees' Deposit-Linked Insurance Scheme, 1976 (for short "the Scheme").

4. Under paragraphs 7 and 8 of the scheme, the petitioners are required to pay the Employees' Deposit-linked insurance contributions and administrative charges within fifteen days of the close of every month. The petitioners failed to pay the same for considerable length of time, the consequence of which the respondent Thiru G. Guruswamy, Enforcement Officer, Provident Funds, Coimbatore IV Division launched the aforesaid prosecutions, giving rise to the present actions.

5. Learned counsel appearing for the petitioners would commence his arguments in a flamboyant style by resorting to bombard and virtually mount an attack on the various prosecutions by stating that all such prosecutions are barred by limitation, besides urging for consideration two subsidiary points revolving on the questions of (1) want of application of mind in according the sanction; and (2) the Locus standi of the respondent in launching the prosecutions. After making strenuous argument on the question of limitation, learned counsel for the petitioner, realising the awkward situation in which he was placed in raising such an argument, on the face of the decision of the apex of the judicial administration reported in Bhagirath Kanoria and Others Vs. State of M. P., and also the unreported decision of this court dated 5-7-1990 rendered by Arunachalam, J. in CrI. M.P. No. 11332 of 1986 batch of cases M/s. Aero Marine Industries Pvt. Ltd. v. State drawn to my attention by the other side, holding that the Law of Limitation is not applicable to the Act, as the offences are continuing ones, did not press such a contention.

6. The other two contentions are also to meet with dismal failure, on the facts and circumstances of the case. There is no manner of doubt whatever that each of the complaints filed by the respondent was accompanied by an order of sanction accorded by the Regional Provident Fund Commissioner, Coimbatore. Want of application of mind in according the sanction is not a matter, which could be gone into in the petitions of this nature. Such a ritualistic exercise of there being the application of mind or not can be gone into only by the trial Court. As such, this contention is of no substance and consequently the same is rejected.

7. The respondent, while launching the prosecution, described himself as the

Enforcement Officer of the Provident Funds, Coimbatore IV Division

in the cause title. The cause title is further elaborated in the first paragraph of each of the complaints by stating that he is the Enforcement Officer

appointed u/S. 13 of the Act. The grievance of learned Counsel for the petitioner is that the respondent complainant by such description in the

complaints can by no stretch of imagination be construed as "Inspectors" appointed by the Government under this Act for enforcing the provisions

of this Act. Such a grievance, on the face of the description of the complainant in the cause title and the elaboration given in the first paragraph of

each of the complaints, as stated above, is rather misconceived, inasmuch as it is made certain by such description and elaboration that the

respondent-complainant is a person appointed u/S. 13 of the Act for the purposes of enforcing the provisions of the Act. As such, this submission

also bristles next to nothing.

8. For the reasons as above, all the petitions deserve to be dismissed and they are accordingly dismissed.

9. Petitions dismissed.