
(2022) 03 JH CK 0014

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 2329 Of 2016

M/s Tata Consultancy Services Ltd

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 08-03-2022

Acts Referred:

Contract Labour (Regulation And Abolition) Act, 1970 — Section 23, 24, 27

Citation : (2022) 03 JH CK 0014

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : V.K. Dubey, Vibha Bakshi

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi , J

This petition has been filed for quashing the entire criminal proceeding in connection with C-III 222/2014 including the order taking cognizance dated 25.11.2014 whereby cognizance under section 23 and 24 of the Contract Labour (Regulation and Abolition) Act, 1970 has been taken against the petitioner which is pending in the court of ACJM, Ranchi.

The prosecution case has been lodged by the Labour Inforcement Officer (Central) who inspected the establishment on 24.03.2014 alleging therein that

- a) the accused person failed to display of notices showing the rate of wages, hours of work, name and address of the Inspector and date of payment of unpaid wages in English and Hindi at the place of work,
- b) The accused person failed to display of notice showing the wage period and the place and time of disbursement of wages at the place of work and non submission copy thereof to the principal Employer under acknowledgement of the Inspector,
- c) The accused person failed to display of notices showing the Act and Rules in

English and Hindi, and at the place of work,

d) The accused person failed to maintain the Register of persons employed in Form XIII at the place of work or within the radius of 3 k.m.,

e) The accused person failed to maintain the Register of Muster Roll and Register of wages at the place of work or within the radius of 3 k.m.,

f) The accused person failed to maintain the Register of Fines, Deductions for damage or loss and advances at the place of work or within the radius of 3 k.m.,

g) The accused person failed to maintain the Register of Overtime at the place of work or within the radius of 3 km.

h) The accused persons failed to provide first aid facilities at the place of work and

i) The accused person failed to submit Return showing commencement of work to the Inspector Mr.Dubey, the learned counsel for the petitioner submits that this petition is fit to be allowed in view of the provisions made under section 27 of the Contract Labour (Regulation and Abolition) Act, 1970.He further submits that in the light of section 27 of the said Act, the complaint is required to be made within three months from the date of alleged commission of the offence wherein the case has been lodged much after the said period. He further submits that only the company has been made accused in this case.

The learned counsel for the Union of India submits that there is no illegality in filing the complaint which has been filed well within the time.

The Court has gone through the materials on record. The complaint is at Annexure-I. In the complaint date of occurrence is shown as 24.03.2014 and the complaint has been filed on 25.11.2014. In the light of the section 27 of the said Act, it was required to be filed within three months from the date of occurrence. Admittedly, it has been filed much belatedly. For ready reference, section 27 of Contract Labour (Regulation and Abolition) Act, 1970 is quoted hereinbelow:

"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."

The case of the petitioner is not coming under the proviso of that section as it has not been alleged anything in the complaint. Although the limitation petition has been filed but no condonation has been allowed by the learned court and by order dated 25.11.2014 the cognizance has been taken.

The Court has perused the cognizance order dated 25.11.2014. How, the reasons

of coming to the conclusion that prima facie case has been made out against the petitioner has not been disclosed in the cognizance order. A reference may be made to the case of Sunil Bharti Mittal v. C.B.I., (2015) 4 SCC 609. Para no.48 of said judgment is quoted hereinbelow:

"48. Sine qua non for taking cognizance of the offence is the application of mind by the Magistrate and his satisfaction that the allegations, if proved, would constitute an offence. It is, therefore, imperative that on a complaint or on a police report, the Magistrate is bound to consider the question as to whether the same discloses commission of an offence and is required to form such an opinion in this respect. When he does so and decides to issue process, he shall be said to have taken cognizance. At the stage of taking cognizance, the only consideration before the court remains to consider judiciously whether the material on which the prosecution proposes to prosecute the accused brings out a prima facie case or not."

In view of the above facts and considering the submissions of the learned counsel for the parties and the reasons and the analysis made herein above, this petition succeeds and the entire criminal proceeding in connection with C-III 222/2014 including the order taking cognizance dated 25.11.2014 whereby cognizance under section 23 and 24 of the Contract Labour (Regulation and Abolition) Act, 1970 has been taken against the petitioner which is pending in the court of ACJM, Ranchi is hereby quashed.

Cr.M.P. No. 2329 of 2016 is allowed.

Pending I.A if any, also stands disposed of.