

(2008) 11 MAD CK 0074

In the Madras High Court

Case No : Writ Petition No"s. 10332, 10333, 10334 and 10335 of 1999

Ramalinga Raya Reddy, Bharathkumar, C.R. Krishnamachary and K. Srikanth APPELLANT

Vs

The State of Tamil Nadu RESPONDENT

Date of Decision : 18-11-2008

Acts Referred:

Industrial Disputes Act, 1947 — Section 12(3), 18(1), 29, 34(1)

Citation : (2008) 11 MAD CK 0074

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Sankaranarayanan, for the Appellant; A. Arumugam, Spl. G.P., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—These four writ petitions are filed challenging the order of the Government in G.O.(D) No. 426, Labour and Employment

Department dated, 24.05.1999.

2. By the aforesaid order, the Government sanctioned prosecution in terms of Section 34(1) of the Industrial Disputes Act (for short I.D. Act). The

allegation against the petitioners was that they have violated the terms of settlement reached between the parties and therefore, they are liable for

punishment u/s 29 of the I.D. Act. By the aforesaid Government Order, the Inspector of Labour, Tiruvallur was authorised to file a prosecution

application before the Judicial Magistrate Court at Ambattur. It is at this stage, the present writ petitions have been filed. Pending the writ petitions,

this Court granted an order of interim stay on 18.06.1999, which was also made absolute on 09.09.2003.

3. Today when the matter was called, the learned Counsel for the petitioners submitted that the basis for prosecution is disappeared because the unions which gave original complaint before the Government had subsequently entered into a settlement and has also withdrawn the complaint made to the Government. In support of the same, the learned Counsel also produced a settlement dated 30.06.2001 entered into between the petitioner management and the individual worker u/s 18(1) of the I.D. Act. By the terms of the settlement, the individual worker had agreed that the union which originally raised a dispute had agreed to withdraw all disputes including the complaint made to the Government.

4. In a writ proceedings, challenging the sanction for prosecution issued by the appropriate Government, namely, in the present case, the state Government, the petitioners cannot lead evidence in support of their averments that the basis for the complaint had disappeared or that the original complainants had withdrawn the complaint made before the Government. In the present case, the allegation raised against the petitioners was that there was a violation of the terms of settlement signed u/s 12(3) of the I.D. Act. As to whether the terms of the settlement has been implemented or whether there was a violation of the terms of settlement, is purely a question of fact. At the maximum, the defence taken by the petitioners was a best defence which are available to them to be let in before the learned Magistrate Court. If the learned Magistrate is satisfied with the defence, then the prosecution complaint will be rejected. In the present case, the counsel for the petitioners cannot submit materials which is in the form of a defence to be pleaded before the appropriate criminal court. Even the so called defence that is produced before the Court is only a settlement u/s 18(1). As to how far such a settlement can override the provisions of settlement u/s 12(3) is also a matter of evidence.

5. In such circumstances, no case is made out to interfere with the order passed by the Government. Hence, the writ petition is dismissed. No costs. The dismissal of the writ petition will not prevent the petitioners from leading appropriate evidence before the trial court and whatever observation made by this Court will not stand in the way of the learned Magistrate coming to any independent conclusion regarding the violation of the settlement.