

(1998) 09 BOM CK 0073

In the Bombay High Court

Case No : Criminal Writ Petition No. 375 of 1991

Ramchand Daulatram Chhabria and others

APPELLANT

Vs

The Regional Provident Fund Commissioner and others

RESPONDENT

Date of Decision : 16-09-1998

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14(1B)

Citation : (1999) 5 BomCR 183

Hon'ble Judges : T.K. Chandrashekhara Das, J

Bench : Single Bench

Advocate : Shekhar Nafade, instructed by, Thakurdas and Madgavkar, for the Appellant; Mrs. Usha Kejriwal, Assistant Public Prosecutor and H.V. Mehta, for the Respondent

Judgement

T.K. Chandrashekhara Das, J.—The matter arises out of Employees Provident Fund and Miscellaneous Provisions Act, 1952. The petitioners were prosecuted for committing default in making payment towards the provident fund u/s 14(1-B) read with sections 14-A and 14-AA of the Employees Provident Fund Act, 1952 before the Metropolitan Magistrate, 23rd Court, Esplanade for the period of February and March, 1982 on the basis of complaint made by the Provident Fund Inspector in Case No. 1455/PP/ 1987. Similar complaint has been filed by the Provident Fund Inspector before the said Magistrate as Complaint No. 1454 of 1997 for committing default in subscribing to the family pension. Yet another complaint was also filed by the Provident Fund Inspector before the said Magistrate as Complaint No. 1455 of 1987 for failure to pay the administrative charges and failure to submit returns. These three complaints were entertained by Magistrate and issued summons against the petitioners and this writ petition is filed to quash these three proceedings pending before the Magistrate.

2. I heard counsel Mr. Nafade for petitioner and Mr. Mehta, Counsel for respondents. Nos 1 to 3 and Mrs. Usha V. Kejriwal, A.P.P. for respondent No. 6. During the course of argument it is revealed that the aforesaid complaint was

filed by the Provident Fund Inspector on 14-10-1987 and the entire amount has been paid by the petitioners on 29-1-1988. It is also revealed that the delay in making the payment is due to some disputes between the partners of the petitioner firm and that the dispute ultimately culminated in filing of suit and in that suit a Receiver has been appointed. In the circumstances, it is averred in the writ petition that the delay in making payment was not on account of the deliberate attempt on the part of the petitioner. More than 10 years has been elapsed after filing of the complaint and as I said earlier, the amount has been paid already. In view of this. I do not think it is expedient and in the interest of justice to continue the proceedings against the petitioners at this distance of time as is held by the Supreme Court in Adoni Cotton Mills Ltd. and Others Vs. Regional Provident Fund Commissioner and Others, .

3. In the result, the prosecutions initiated against the petitioners which are impugned in this case are hereby quashed. Since I am quashing the proceedings in the circumstances shown above, the petitioner should be directed to contribute towards the fund a sum of Rs. 5,000/-. The petitioners are directed to make such payment within six weeks from today.

Rule is made absolute in the above terms with no orders as to costs.