
(1993) 11 DEL CK 0037

In the Delhi High Court

Case No : Civil Writ Petition No. 1715 of 1991 and Civil Miscellaneous No. 2741 of 1991

Tobu Enterpries Ltd. and Others

APPELLANT

Vs

The Lt. Governor, Delhi and Others

RESPONDENT

Date of Decision : 05-11-1993

Acts Referred:

Industrial Disputes Act, 1947 — Section 34

Citation : (1993) 4 AD 609 : (1994) 53 DLT 255 : (1994) 28 DRJ 515 : (1994) 68 FLR 615 : (1994) 2 ILR Delhi 35 : (1994) 1 LLJ 1221

Hon'ble Judges : D.P Wadhwa, J;D.K. Jain, J

Bench : Division Bench

Advocate : D.K. Aggarwal, S.K. Khurana, D.N. Vohra and Rajeev Nanda, for the Appellant;

Judgement

This Judgment has been overruled by : Raj Kumar Gupta Vs. Lt. Governor, Delhi and others, (1996) 8 AD 671 : AIR 1997 SC 2680 : (1996) 10 JT 559 : (1997) 1 LLJ 994 : (1996) 8 SCALE 177 : (1997) 1 SCC 556 : (1997) SCC(L&S) 181 : (1996) 8 SCR 464 Supp : (1997) 1 UJ 60 : (1997) AIRSCW 2646 : (1996) 8 Supreme 53

D.P. Wadhwa, J.

(1) This petition under Article 226 of the Constitution is directed against the order dated 16 April 1991 of the Lt. Governor of the Union Territory of Delhi, authorising Shri Raj Kumar Gupta, President of Tobu Mazdoor Sangh (Regd.), u/s 34 of the Industrial Disputes Act, 1947 (for short " the I.D. Act") to file a criminal complaint for an offence u/s 25U of the I.D. Act against M/s. Tobu Enterprises Limited, its Managing Director and the General Manager, who are now the petitioners before us.

(2) The only question which arises for consideration in this petition is if a private person could be so authorised u/s 34 of the I.D. Act to file a complaint for an

offence u/s 25U of the said Act.

(3) We are not concerned with the facts of the case as such as any observation made by us may prejudice the case of either of the parties. We are only concerned with the legal proposition as aforementioned.

(4) To understand this proposition it would be appropriate to set out the impugned order as well as the relevant provisions of the I.D. Act -

"DELHIADMINISTRATION: Delhi (Labour Department) No.F-I(I)/Misc.89/Lab. Date the 16 April, 91. Order Whereas it has been made to appear to the Lt. Governor of the union territory of Delhi that the management of M/s. Tobu Enterprises Limited and its Managing Director (Shri D.N.Kejriwal) and General Manager (Shri Ashok Agarwal), 8/29, Kirti Nagar, Industrial Area, New Delhi-110015 have resorted to unfair labour practices as contained in the fifth Schedule of the Industrial Disputes Act. 1947 (Act No. 14 of 1947) and thereby contravened section 25T of the said Act which is punishable u/s 25U of the aforesaid Act. Now, Therefore, in exercise of the powers inferred on him u/s 34 of the said Act read with the Government of India, Ministry of Home Affairs Notification No.2/2/61-Judl., dated the 24th March 1961. the Lt. Governor of union territory of Delhi, after having carefully considered the matter, hereby authorises Shri Raj Kumar Gupta, President, Tobu Mazdoor Sangh (Regd), 5239-Ajmeri Gate, Delhi, to file a complaint in the court of competent jurisdiction against the above said establishment and against the persons mentioned above as the Managing Director and General Manager respectively of the aforesaid establishment for resorting to unfair labour practices amounting to an offence u/s 25T and punishable u/s 25U of the said Act. By order and in the name of the Lt.Governor of the Union Territory of Delhi. sd/- (Duli Chand) Under Secretary (Labour),Delhi Administration, Delhi. "

"25-T.Prohibition of unfair labour practice. - No employer or workman or a trade union, whether registered under the .Trade Unions Act, 1926 (16 of 1926), or not, shall commit any unfair labour practice. 25-U. Penalty for committing unfair labour practices. - Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. 34. Cognizance of offences. -(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government. (2) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act."

39.Delegation of powers.-The appropriate Government may, by notification in the Official Gazette, direct tht any power exercisable by it under this Act or rules made there under shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also - (a) where the appropriate Government is the Central Government, by such officer or

authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and (b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification. "

We may also note section 30 on which also an argument was based:-

"30. Penalty for disclosing confidential information. - Any person who willfully discloses any such information as is referred to in Section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. "

(5) "UNFAIR labour practice" is defined in section 2(ra) of the I.D. Act and it means any of the practices specified in the Fifth Schedule. There are two types of unfair labour practices mentioned in the Fifth Schedule in two parts. Part I deals with the unfair labour practices on the part of the employers and trade unions of employers and Part II deals with that on the part of workmen and trade unions of workmen. It is unnecessary for us to set out these unfair labour practices.

(6) The respondents are the Lt. Governor and the President of Tobu Mazdoor Sangh (Retd). Both these respondents have filed their respective returns to the petition stating that the impugned order is valid and a private person could be so authorised to file a criminal complaint under the authority of the appropriate Government.

(7) Mr. Aggarwal appearing for the petitioner submitted that to prosecute a person for a criminal offence is a sovereign function of the State and the State exercises that power through its State functionaries and no other unless it was specifically provided by any law. He said the power which the State Government is to exercise u/s 34 could be delegated by it u/s 39 of the I.D. Act and that power could be exercised by such officer or authority subordinate to the State Government as may be specified in the notification. Mr. Aggarwal said that there could be no delegation of power to a private person, be that be President of a trade union. He also said that a complaint u/s 30 of the Act could be made by the trade union or individual without reference to section 34 of the Act and that only where the law so prescribes that a private individual can set the law into motion. In support of his submission Mr. Aggarwal referred to a decision of the Supreme Court in Ishwar Singh Bagga and Others Vs. State of Rajasthan, . This was a case u/s 129, 129-A and 133-A of the Motor Vehicles Act, 1939. Sections 129 and 129-A are now sections 206 and 207 of the Motor Vehicles Act, 1988. and section 133-A is now section 213. u/s 129-A any police officer or other person authorised in this behalf by the State Government may seize or detain a motor vehicle in the manner prescribed and also take or cause to be taken any steps which he might consider proper for the temporary custody of the vehicle. As to under what

circumstances this power could be exercised are mentioned in the section. The State Government issued a notification authorising the Deputy General Manager (Traffic) and other officers of the State Road Transport Corporation to discharge the power u/s 129-A of the old Act. The court said that the officers of the State Road Transport Corporation could not be treated as persons falling within the meaning of expression "other persons" in section 129 and 129-A even though some of them might be officers deputed by the State Government to work as officers and servants of the corporation. The court said that a reading of section 129-A and section 133-A together showed that the "other person" referred to in section 129-A who might be empowered to discharge the powers under that section could only meant an officer of the Government, such as the Motor Vehicles Officer appointed u/s 133-A or of any other department. The court said that it could never have been the intention of the Central Legislature, while enacting section 129-A and section 133-A that the powers exercisable u/s 129-A could be conferred on persons who were not officers of the Government, and that if the Central Legislature intended that such powers could be entrusted to private persons or employees of any statutory Corporation the section would have expressly provided in that regard. The court pointed out that ordinarily whenever a statute empowered the State Government to appoint persons to administer any of the provisions of the statute, the persons who might be appointed by the State Government under such provision could only be persons appointed in connection with the affairs of the State. In other words, the court said, they should be employees or officers of the State Government, who were subject to the administrative and disciplinary control of the State Government directly. The powers of search, seizure and detention of vehicles belonging to private parties and of launching prosecutions were incidental to the sovereign powers of the State and they could not ordinarily be entrusted to private persons unless the statute concerned makes the express provisions in that regard.

(8) Mr. Vohra disputed the contention raised by the petitioners and said that the impugned order was valid. He said delegation is not something as authorization and in support of his submission he referred to a decision of this Court in *Deva Gir v Delhi Transport Corporation*, 2nd 19761 Del 534 . On the other question if the State Government could authorise a private individual to file a complaint, Mr. Vohra said he was supported by three decisions of views High Courts, namely, *S.S. Hada v. The Binny Ltd. Staff Association*, 1989 Lab.I.C. 165 (Karnataka, Full Bench); *Ramdas and Others Vs. K.M. Sen, Manager, Oriental Gas Co. Ltd., Calcutta*, ; and *State of Kerala Vs. Mary C. Nidhiri Chacko*, Yet another decision of the Calcutta High Court in *Jiwan Das Vs. Rabin Sen and Others*, was also cited.

(9) Mr. Aggarwal tried to distinguish these decisions. He said u/s 34 of the I.D. Act complaint could be filed without reference to the appropriate Government. While distinguishing judgment of the Calcutta High Court, Mr. Aggarwal also referred to a decision of the Privy Council in AIR 1948 82 (Privy Council) . Mr. Aggarwal then said that decision of the Supreme Court in the case of *Ishwar Singh Bagga* was not before the High Courts and as such those decisions did not

lay a correct law.

(10) In Ramdass's case, 1956 XI L.L.J.323 (Calcutta, D.B.), the appropriate Government had authorised the Assistant Manager of the Oriental Gas Company Ltd. u/s 34 of the I.D. Act to file a complaint in respect of the offences u/s 26 and 27 of the Act arising from a particular incident. The question raised was that the authority given by the State Government to K.M. Sen, the Assistant Manager, could not be regarded as proper authority because the facts of the case were not mentioned in the notification and there was nothing to show that the State Government applied its mind to the facts of the case and gave authority after due consideration. Reliance was placed on a decision of the Privy Council in AIR 1948 82 (Privy Council). The Calcutta High Court referred to the provisions of section 34 of the I.D. Act and also to the ruling of the Privy Council in Gokulchand's case. The case of Gokulchand was under the Cotton Cloth and Yam (Control) Order, 1943, and under clause 23 of that Order sanction was required to be given before a court could take cognizance of the offence for contravention of the Order. The Privy Council held that a sanction which merely named the person to be prosecuted and specified the provision of the order which he was alleged to have contravened was not a sufficient compliance with clause 23 under which the sanction was given and that in order to comply with the provisions of clause 23 it must be proved that the sanction was given in respect of the facts constituting the offences charged and it was desirable that the facts should be referred to on the face of the sanction, and that but while this was not essential, if the facts did not appear on the face of the sanctioning order it was necessary that it should be established by evidence that the sanction was given in respect of the facts constituting the offences charged. As noted above, the argument raised before the Calcutta High Court was that the notification in question did not refer to the facts of the case and as there was no direct evidence in the case establishing that the authority was given on the facts of the particular case, the authority given u/s 34 was not proper and, therefore, the magistrate could not have taken cognizance of the case. The court, however, drew a distinction where sanction was required to launch a prosecution and where complaint could be filed on the authority of the appropriate Government. The court held that in the case before it the decision of the Privy Council in Gokulchand's case was not applicable. The court also referred to the provisions of section 196 and 197 of the Code of Criminal Procedure (old) and observed that there were two different forms of expression in the two consecutive sections and said that distinction had to be made between the cases where the statute provided that no court shall take cognizance of an offence except with the previous sanction of the Government and a case where the statute provided that no court shall take cognizance of an offence save on complaint made by or under the authority of the Government. Sen J., who constituted the Bench and delivered the leading judgment, had occasion to remark that section 34(1) provided that the complaint was to be made by or under the authority of the appropriate Government and where the complaint was not made by the appropriate Government, the

appropriate Government had only to give authority to some officer to file a complaint. Since this was not the issue involved in the case before the Court, these observations may be treated at best as obiter, but in our view it is the correct interpretation of section 34(1) which we are putting to this sub-section. O.P. Malhotra in his treatise *The Law of Industrial Disputes*, Fourth Edition, said that the obiter in *Ramdass's* case appeared to be more logical. According to learned author, who examined some decisions, "any power exercisable by the appropriate Government under the Act can only be delegated to the persons enumerated in S. 39 which does not include private persons. Besides, giving authority to one of the parties to the dispute to prosecute the other may be destructive of the purpose of this Section. These aspects have not been considered in any one of the cases". However, to us it would appear that the observation that the authority u/s 34(1) could be given only to those whom powers could be delegated u/s 39 of the I.D. Act appears to be rather going a bit to far. To us it appears that provision of section 39 relating to delegation of powers has no application when it comes to authorization of filing of a complaint by appropriate Government u/s 34(1) of the Act. authorization is not something same as delegation. In this connection we may usefully refer to a decision of this Court in *Deva Gir v. Delhi Transport Corporation*, 2nd (1976) 1 Del 535 . In this case, u/s 12(b) of the Road Transport Corporation Act, 1948, the Corporation could delegate its powers and duties to certain officers of the Corporation named therein, and u/s 12(c) thereof the Corporation could authorise its Chief Executive Officer or the General Manager or any other officer to exercise such power and perform such duties as it might deem necessary for the efficient day-to-day administration of the Corporation. The question that arose before the court was as to what would be the meaning of "delegation" as used in section 12(b) and "authorization" as used in section 12(c) of the said Act. The court observed as under :- "Delegation" of power connotes, according to the dictionary meaning (Chambers' Twentieth Century Dictionary), to entrust or commit. "authorization" according to the dictionary meaning, is, to give authority, to sanction, to justify. In legal parlance by delegation is meant the devolution from an agent upon another person of a power or duty entrusted to the agent by his principal. As Lord Esher, M.R. said in *Claxton v. Mowlem & Co.* (1988), 4 T.L.R. 756 "Delegation, as the word is generally used, does not imply a parting with powers by the person "who grants the delegation, but points rather to a conferring of an authority to do things which otherwise the person would have to do himself. The best illustration of the use of the word is afforded by the maxim. *Delegates non potest delegare*, as to the meaning of which it is significant that it is dealt with in *Broom's Legal Maxims* under the law of contracts: it is never used by legal writers, so far as I am aware, as implying that the delegating person parts with his power in such a manner as to denude himself of his rights. If it is correct to use the word in the way in which it is used in the maxim as generally understood, the word "delegate" means little more than an agent." "authorization" has a different connotation altogether. To quote the words of Herring, C.J. in an Australian case, *Winstone v. Wurlitzer Automatic Phonograph*

Co., (1946) A.L.R. 422, "the word "authorise" should be read in its ordinary sense of sanction, approve or countenance. "Thus, when power is delegated the person in whose favor the delegation is made exercises the power as an agent of the person delegating the power as if the power is exercised by the latter himself. In the case of authorization the identity of the person authorised and the person authorising remain distant and the former only signifies his agreeing to countenance and accept what the authorised person may do within limits of the authorization. Therefore, the delegation postulated by section 12(b) of the Act is clearly to be distinguished from the authorization contemplated by Section 12(c)." As a matter of fact a delegate u/s 39 could well authorise a person to file a complaint though in our view that person must be a public functionary and not a private person.

(11) In *Jiwan Das Vs. Rabin Sen and Others*, , the court was of the opinion that the authority given u/s 34 of the I.D. Act in the case before it was insufficient. It observed that there was no indication whether one or more offences had been committed, or where the offence was committed, or when the offence was said to have been committed. The court was of the view that authorization could not be in general terms and it had to be with reference to a particular case. The court did not go into the question if the law laid by the Privy Council in *Gokulchand's* case was applicable, or whether the case of *Ramdass* (supra) decided by the earlier Bench was rightly decided or not. Nevertheless it assumed that the case of *Ramdass* was rightly decided and that principles laid down by the Privy Council as regards "sanction" for prosecution were not applicable to the "authority" that might be given u/s 34 of the I.D. Act.

(12) In *State of Kerala Vs. Mary C. Nidhiri Chacko*, there was an appeal against the acquittal on a complaint filed by the District Labour Officer in pursuance of the authority conferred by section 34(1) of the I.D. Act. The learned Sessions Judge while acquitting the accused was of the view that section 34 of the I.D. Act was only "a mandate to the Court" and conferred no power on the Government. In that view, the Judge said, whatever was conferred on the Government under the section was not something that could be delegated by it u/s 39 which applied only to the delegation of power. He said the complaint made by the Labour Officer, not being a complaint made by or under the authority of the appropriate Government, was not the complaint required by section 34(1) of the I.D. Act. u/s 39 of the I.D. Act, power had been delegated to the Labour Commissioner who in turn had authorised the District Labour Officer to file the complaint. The High Court of Kerala disagreed and" held as under :- "The right conferred on the appropriate Government by S. 34(1) of the Industrial Disputes Act using the word "right" in its wide generic sense, is a power. It enables the appropriate Government to do something and that ability could rightly be termed a power. Section 34(1), in fact, confers two powers on the appropriate Government, the first to make a complaint and the second to authorize the making of a complaint or in other words to delegate in any particular case its power to make a complaint. Section 39 of the Act authorizes the appropriate Government to

delegate any power exercisable by it under the Act, and the delegation made by the State Government in the instant case in favor of the Labor-Commissioner is of both the powers under S. 34(1) in so far as offences under S. 29 are concerned, namely, the power to make a complaint and the power to authorize somebody else to make a complaint. Such delegation would be a perfectly good delegation in terms of the section and since the section itself authorizes the delegation of the power to authorize someone else to make a complaint, no question of a delegate being disentitled to make a further delegation arises. " The court also relied on the decision of the Privy Council in AIR 1948 82 (Privy Council) and was of the view that where the competent authority, instead of itself making a complaint, authorized some other person to make a complaint on its behalf, it would be necessary to show, either by the order of authorization itself, or by evidence aliunde, that the competent authority had, after applying its mind to the fact of the case, decided upon a prosecution.

(13) It will be, thus, seen that in none of the cases aforesaid the question which we have to decide was squarely raised. However, it was the Full Bench of the Karnataka High Court in S.N. Hada v. The Binny Ltd. Staff Association 1989 Lab. I.C. 165 which considered the following question:-

"WHETHER a complaint lodged by a private individual securing permission from the Government or the Labour Commissioner as the case may be could be regarded as a complaint made under S. 34 of the Industrial Disputes Act by the Government or the Labour Commissioner or under its or his authority?"

The question is the same as that what has been raised in the present petition before us. It was submitted before the Full Bench that the prosecution had to be by the State and not by private individual with permission of the Government or the Labour Commissioner, and that if a private individual lodged a complaint with the permission of the Government or the Labour Commissioner the latter would have no control or authority over the complainant, and that the person lodging the complaint must be an agent of the State. Against this argument it was stated that in the event of holding that it was only the Government or its agent who could file a complaint, great hardship was likely to be caused to the aggrieved party. The court said that section 34 when analysed showed that it conferred two powers on the appropriate Government—firstly to make a complaint itself and secondly to authorise the making of complaint. The court said that section 34 as the language showed was only a mandate to the Court and conferred no power on the Government. It only prohibited the court from taking cognizance of any offence punishable under the I.D. Act unless the complaint was made to it by or under the authority of the appropriate Government. The court said that the question that needed determination was as to what meaning had to be given to the words "under the authority of the appropriate Government". The court then held as under :-

"AS we look at the matter, interpretation of S. 34 would be easier if the scheme of the Act especially penalty provisions are kept in mind as cognizance of a

complaint under S. 34 is taken by a Magistrate only with regard to the offences specified therein. Under the Act, two parties between whom lis exists are the employer and the Employee. An offence of which complaint can be made would be committed either by the Employer or the Employee. By enacting penal provisions the aim of the legislature is to ensure compliance of the orders of the Tribunal and also to ensure obedience and compliance of the provisions of the statute. By non-compliance or disobedience of any provision of the Act, it is an individual right - either of the Employer or of the Employee - which is affected. The intent of the legislature in enacting a provision like S. 34 is to save the party against whom the complaint is to be filed, from harassment. and it is for that reason that the Government is required to apply its mind and determine the propriety of filing a complaint. The phrase "under the authority of the appropriate Government" implies a sanction by the Government after it has considered the desirability of prosecution. If such a provision had not been enacted there could be every likelihood of filing of frivolous complaints indiscriminately. Moreover, there are certain offences which have importance either to the Employer or the Employee only. In such matters why should the Government at all involve its officers in file the complaints and not allow the real aggrieved party to prosecute the complaint properly and diligently. What interest can the Government or its agency have in filing and prosecuting a complaint in which the right of some private individuals are involved and which does not require determination of some question which may be of some importance and may warrant intervention of the State Government or its agency. As is clear, authorization is a pre-requisite essential for taking cognizance of an offence under this Section. The appropriate Government, Therefore, is required to apply its mind and satisfy itself before it gains the authority. It is this satisfaction which is material and sufficient for the purpose. Once on consideration of the relevant material the State Government finds it to be fit case for prosecution, then who should file the complaints is not of much importance. The interpretation sought to be put on the words "under the authority of the appropriate Government" does not in any way advance the purpose of the Act. Strict grammatical or etymological propriety of language would not be of much use in understanding the intent of the Legislature and in construing the provision in question. It is well settled that the words of a statute, when there is a doubt about their meaning, are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the Legislature has in view. As has been brought out earlier, the intent of the Legislature is only to ensure the non-filing of frivolous complaints and nothing more."

(14) The court also referred to the provision of section 30 of the I.D. Apt as throwing light and indicating clearly the intention of the legislature that a private person could also be authorised to file a complaint. The court said that before filing the complaint the complainant had to move the Government for authorization, and that in case the view was taken that only the Government or its agent could file a complaint, then the provisions of section 30 providing for

the filing of the complaint by or on behalf of the trade union or individual business affected, would become redundant, which could never be the intention of the Legislature. The court finally held that viewed from any angle it was difficult to hold that under provision of section 34. a private body or person other than the agent of the Government could not be authorised by the Government to file a complaint in a court of law.

(15) With due respect to the view expressed by the Full Bench of the Karnataka High Court we find ourselves in disagreement with the same. Appropriate Government has either to file a complaint itself u/s 34 or the complaint could be filed under its authority. There cannot be two extremes, i.e., either the appropriate Government itself files the complaint or it can authorise any private party to file a complaint. Complaint has to be filed either by the appropriate Government or its functionaries. The offences under the I.D. Act are non-cognizable. These can be tried only as summons cases. A different procedure is prescribed in the Code when a complaint is filed by private person and when it is filed by a public servant acting or purporting to acting in the discharge of his official duties (sections 200,202 and 203). If in a summons case the complainant does not appear the Magistrate shall acquit the accused unless for some reason he thinks it proper to adjourn the hearing of the case to some other day (section 256). The complainant can also withdraw the complaint (section 257). If authority to file a complaint is given to a private person it is likely to be abused. There will be no check on the complainant to prosecute the complaint with all due diligence. He will not be interested in a fair trial and may be actuated by personal vendetta against the accused frustrating the fair and speedy trial. For the interpretation of the provisions of section 34 of the I.D. Act we do not think it is necessary for us to refer to sections 195, 196, 197 and 198 of the Code. u/s 279 of the Income Tax Act, 1961, before its amendment, a person could not be proceeded against for offences under that Act except at the instance of the Commissioner of Income Tax. The expression "at the instance" was subject-matter of interpretation by the Supreme Court in T.S. Baliah Vs. T.S. Rengachari, . The court said that the expression "at his instance" meant "on his authority". A complaint for an offence under the I.D. Act will, Therefore, be by the appropriate Government or at its instance. It is difficult to comprehend a situation where a complaint filed by private individual under the authority of the appropriate Government could be said to be at the instance of the appropriate Government. The appropriate Government must have control over whole of the prosecution. That can only be done if the authority is given to any of the public functionaries and not to a private individual. Where the Act says that the authority could be given to a private party it has specifically so mentioned and in this connection reference may be made to section 30 of the I.D. Act. Here the complaint could be made by or on behalf of the trade union or individual business affected but under the authority of the appropriate Government. We do not agree with the submission of Mr. Aggarwal, counsel for the petitioner, that for a complaint u/s 30, section 34 need not be resorted to. Section 34 is a complete

bar on the court to take cognizance of any offence punishable under the I.D. Act. The purpose of enacting of I.D. Act is not merely to settle disputes between the individual employee and the management, but the Act has been enacted for keeping industrial peace and for progress of the country in industrial field. To say that industrial dispute is between two individuals is to ignore the objective of the Act. There are various sections in the I.D. Act providing for penalties the purpose of which does not appear to settle some score between a workman and the employer. These penalties have been provided keeping in view the purpose of the Act. Some of these sections are section 25-O (providing penalty for lay-off and retrenchment without previous permission), section 25-R (providing penalty for closure of an undertaking without resort to section 25-O and also providing for stringent penalty where an employer contravenes an order refusing to grant permission to close down an undertaking or a direction given u/s 25-P as to restarting of undertaking under certain circumstances), section 25-U (providing penalty for committing unfair labour practices either by the employer or workman or a trade union; the unfair labour practices having been described in the Fifth Schedule to the Act), and then Chapter Vi providing penalties for illegal strikes and lock-outs (section 36), penalty for instigation, etc. (section 27), penalty for giving financial aid to illegal strikes and lock-outs (section 28), penalty for breach of settlement or award (section 29), penalty for disclosing confidential information (section 30), and penalty for closure without notice (section 30-A). Section 31 is a general section and provides penalties for other offences under the Act. If it was only a private dispute between two persons there was hardly any necessity to empower the appropriate Government to file any complaint. We do not agree that section 34 was enacted merely to put an end to frivolous complaints that could be filed by either of the parties. That objective may be achieved by empowering the appropriate Government to file a complaint or its further authorising a public servant to file a complaint. It has been repeatedly held by the Supreme Court that the I.D. Act was enacted to provide machinery and forum for adjustment of such conflicting and seemingly irreconcilable interest without disturbing the peace and harmony in the industry assuring the industrial growth which was the prerequisite for a welfare State. The essential object of the Act had been not so much to lay down categorically the mutual rights and liabilities of the employers and the employees as to provide recourse to a given form of procedure for the settlement of disputes in the interests of the maintenance of peaceful relations between the parties, without apparent conflicts such as are likely to interrupt production and entail other dangers. The purpose of the Act is to settle disputes between the employees and employers which if not settled would result in strikes or lock-outs and entail dislocation of work, essential to the life of the community. An industrial dispute cannot, Therefore, be looked from the angle of a dispute merely between the employer and the workman. The industrial growth of the country is involved which can be best achieved in a climate of goodwill. The view which we have taken is in conformity with that of the Supreme Court in *Ishwar Singh Bagga and Others Vs. State of Rajasthan*, and, it would appear, that this judgment of the

Supreme Court was not referred to before the Full Bench of the Karnataka High Court.

(16) We are, Therefore of the view that u/s 34 of the I.D. Act the complaint for an offence under that Act except section 30 could not have been filed by a private individual under the authority of the appropriate Government. The impugned order is. Therefore, bad in law and is set aside. There will be no order as to costs. Rule is made absolute.