

Koshy and Thomas Vs. State

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Court : Karnataka

Decided On : Aug-21-1987

Reported in : ILR1987KAR3814

Judge : Navadgi, J.

Acts : [Equal Remuneration Act, 1976](#) - Sections 2; [Contract Act, 1872](#) - Sections 128

Appeal No. : Crl. Petn. No. 900 and 901 of 1985

Appellant : Koshy and Thomas

Respondent : State

Advocate for Def. : C. Shivappa, Central Government Standing Counsel

Advocate for Pet/Ap. : G.S. Ullal, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Navadgi, J.

Criminal Petition No. 900/85 is a petition filed under Section 482 of the Code of Criminal Procedure (the Code for short) with a prayer to call for the record and

proceedings in C.C. No. 874/85 on the file of the Learned Metropolitan Magistrate, V Court, Mayo Hall, Bangalore, and to quash the proceedings in the said case as being without jurisdiction, contrary to law and wholly illegal.

2. Criminal Petition No. 901/85 is also a Petition filed under Section 482 of the Code with a prayer to call for the record and proceedings in C.C. No. 875 of 1985 pending on the file of the learned Metropolitan Magistrate, V Court, Mayo Hall, Bangalore, and to quash the proceedings in the said case as being without jurisdiction, contrary to law and wholly illegal.

3 Since the question of law involved, in both the Petitions, is the same, both the Petitions are disposed of by this common order.

4. The facts in both the Petitions are :

The facts in Criminal Petition No. 900/85

(C.C. No. 874 of 1985)

K. E. Koshy (Petitioner No. 1) and K. M. Thomas (Petitioner No. 2) are the partners of a partnership firm 'Tomcos Engineers & Contractors', T.C 5/843, Perurkada, Trivandru-5, Kerala State. They are A-1 and A-2 respectively in the trial Court.

The Labour Enforcement Officer (Central), Bangalore, and Inspector under the [Equal Remuneration Act, 1976](#), has lodged a complaint against Petitioners Nos. 1 and 2 under Section 10(1)(a) of the [Equal Remuneration Act, 1976](#), for contravention of Rule 6 of the Equal Remuneration Rules, 1976, made punishable under Section 8 of the said Act.

The Labour Enforcement Officer (Central), Bangalore, is the Inspector under Section 9(1) of the Equal Remuneration Act. 1976, for the State of Karnataka under the Notification S.O. No. 618E dated 25-1-1983, issued by the Government of India, Ministry of Labour, New Delhi.

The Labour Enforcement Officer (Central), Bangalore, inspected the 'Construction of Building Comb Lab. for ISA at NAL Campus Kodihalli, Bangalore', on 16.2-1984

and noticed, during the course of Inspection, that petitioners Nos. 1 and 2 had failed to maintain the Register in Form D, appended to Equal Remuneration Rules, 1976. This fact was incorporated in his Inspection Report dated 16-2-1984 and the Inspection Report was sent to petitioners Nos. 1 and 2 by Registered Post with Acknowledgment Due. Petitioners Nos. 1 and 2 did not respond to the Inspection Report. Thereupon, he issued a Show Cause Notice to both the petitioners dated 27-7-1984 and sent the same by Registered Post with Acknowledgment Due. Petitioners Nos. 1 and 2 did not respond to this notice also.

According to the complaint, Petitioners Nos. 1 and 2, who are partners, have contravened Rule 6 of the Equal Remuneration Rules, 1976 read with Section 8 of the [Equal Remuneration Act, 1976](#), and have thereby rendered themselves liable for prosecution and punishment under Section 10(1)(a) of the said Act.

The complaint is preceded by an order of sanction dated 29-3-1985 accorded by the Chief Labour Commissioner (Central), an Officer authorised by the appropriate Government.

The complaint came to be filed on 30-5-1985. On the same day, the Learned Magistrate took it on his file and directed summonses to petitioners Nos. 1 and 2, making them returnable by 26-7-1985. On 26-7-1985, the learned Advocate, duly instructed by Petitioners Nos. 1 and 2, appeared before the learned Magistrate and undertook to file Vakalath. When the matter was at the stage of the learned Advocate to file the Vakalath, petitioners Nos. 1 and 2 approached this Court with this Petition and obtained stay of further proceedings in C.C. 874/85.

5. The facts in Criminal Petition No. 901/85

(C.C. No. 875 of 1985)

The Labour Enforcement Officer (Central), Bangalore and Inspector under the [Equal Remuneration Act, 1976](#) has lodged a complaint against K.E. Koshy (Petitioner No. 1) and Tomcos Engineers and Contractors represented by its partner K.M. Thomas (Petitioner No. 2) under Section

10(1)(a) of the [Equal Remuneration Act, 1976](#), for contravention of Rule 6 of the Equal Remuneration Rules, 1976 read with Section 8 of the said Act.

The Labour Enforcement Officer (Central), Bangalore, inspected the construction of Extension to High bay for ISAC at NAL Complex, Bangalore, which, according to the complaint, is the establishment of which petitioners Nos. 1 and 2 are the employers within the meaning of Sub section (c) of Section 2 of the [Equal Remuneration Act, 1976](#) and found both the petitioners having failed to maintain Register in Form D appended to the Equal Remuneration Rules, 1976. This contravention was incorporated in the Inspection Report No. 39/1/84-C4 dated 16-2-1984 and was despatched to both the petitioners by Registered Post with Acknowledgment Due, Petitioners Nos. 1 and 2 did not respond to the Inspection Report. Thereupon the Regional Labour Commissioner (Central), Bangalore, issued a Show Cause Notice to petitioners Nos. 1 and 2 dated 27-7-1984 and sent the same by Registered Post with Acknowledgment Due. Both the petitioners did not respond to this notice also. According to the complaint, petitioners Nos. 1 and 2 have contravened Rule 6 of the Equal Remuneration Rules, 1976 read with Section 8 of the [Equal Remuneration Act, 1976](#) and have thereby rendered themselves liable for prosecution and punishment under Section 10(1)(a) of the said Act

The complaint is preceded by the order of sanction accorded by the Chief Labour Commissioner (Central), New Delhi, an Officer authorised by the appropriate Government by the order dated 25-4-1985. This complaint came to be filed on 30-5-1985. The learned Magistrate took it on his file on the same day and directed summonses to both petitioners Nos. 1 and 2, making them returnable by 26-7-1985. On 26-7-1985, the learned Counsel duly instructed by petitioners Nos. 1 and 2 appeared and undertook to file Vakalath Nama. When the case (CC.No. 8/5/85) was at the stage of the learned Advocate to file appearance, petitioners Nos. 1 and 2 approached this Court with this Petition and obtained stay of all further proceedings in C.C.No. 875/85.

6. Tomcos Engineers and Contractors would be hereinafter referred to as the Firm. Petitioners Nos-1 and 2 in Criminal Petitions Nos. 900/85 and 901/85 would

be hereinafter referred to as A-1 and A-2 respectively. The Equal remuneration Act, 1976 and the Equal Remuneration Rules, 1976, for the sake of brevity, would be referred to, in the course of this Order, as the Act and the Rules respectively.

7. I have heard the learned Counsel for A-1 and A-2 and the Firm, and Sri C. Shwappa, learned Senior Standing Counsel for me Central Government.

8. I have perused the record and proceedings in C.C.No. 8/4/85 and C.C. No. 875/85 and the record in both the petitions. The Respondent has filed common written briefs in these and connected petitions.

9. According to the learned Counsel for A-1 and A-2 and the Firm, the complaints made against A 1 and A-2 and the Firm by the Labour Enforcement Officer (Central), Bangalore appointed as Inspector by the Central Government under Section 9(1) of the Act with the sanction accorded by the Chief Labour Commissioner (Central), New Delhi, were not valid and legal complaints and that, therefore, the learned Metropolitan Magistrate was correct in taking cognizance of the offence punishable under Section 10(1)(a) of the Act in view of the bar imposed by Section 12(2) of the Act.

7. The gravamen of the allegations made against A-1 and A-2 and the Firm in me two complaints is that they failed to maintain a Register in form 'D' as required by Rule 6 of the Rules. Section 8 of the Act lays down that on and from the commencement of the Act, every employer shall maintain such Registers and other documents in relation to the workers employed by him as may be prescribed. Rule 6 of the Rules provides that every employer shall maintain a Register in relation to the workers employed by him in Form 'D'.

8. Section 10(1)(a) of the Act makes, omission or failure to maintain any Register or other documents in relation to workers employed by the employer punishable with fine which may extend to one thousand Rupees.

9. Section 12(2) of the Act reads :

'No Court shall take cognizance of an offence punishable under this Act except upon a complaint made with the sanction of the appropriate Government or an

officer authorised by it in this behalf.'

A bare reading of Section 12(2) of the Act would show that it prohibits the Court from taking cognizance of an offence punishable under the provisions of the Act except upon a complaint made with the sanction of the appropriate Government or an Officer authorised by it in this behalf.

10. It is the contention of A-1 and A-2 and the Firm that their employment is not the one carried on by or under the authority of the Central Government and that their employment falls within Section 2(a)(ii) of the Act and that it is the State Government which is competent to make a complaint with its necessary sanction or with the sanction of the Officer authorised by it in this behalf.

11. The expression 'appropriate Government' has been defined in Section 2(a) of the Act. it reads:

'2(a). 'appropriate Government' means.--

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government ; and

(ii) in relation to any other employment, the State Government.'

12. The Firm has undertaken the construction of Building Complex Lab for ISAC at NAL Campus, Kodihalli, Bangalore (the subject-matter of C.C. No. 874/85--Criminal Petition No. 900/85), and the construction of Extension to High bay for ISAC at NAL Complex, Bangalore (the subject matter of C.C. No. 875/85-Criminal Petition No. 901/85). There is no dispute that the Firm is the employer within the meaning assigned to it in Clause(f) of Section 2. of the Payment of Gratuity Act, 1972 (Act XXXIX of 1972).

13. In Black's Law Dictionary, Fifth Edition, at Page 471, the expression 'employment' is defined as under:

'Employment.-- Act of employing or state of being employed ; that which engages or occupies ; that which consumes time or attention ; also an occupation, profession, trade, post or business. Hinton -v.- Columbia River Packers' Ass'n, C.C.A. Or., 117F. 2d 310. Includes the doing of the work and a reasonable margin of time and space required in passing to and from the place where the work is to be done. California Casualty Indemnity Exchange -v.- Industrial Accident Commission, 21 Cal. 2d 751, 135 P. 2d 158, 161 ; Park Utah Consol. Mines Co.-v.- Industrial Commission, 103 Utah 04, 133 P. 2d 314, 317. Activity in which person engages or is employed : normally, on a day-to-day basis. See also Casual employment ; Course of employment ; Seasonable employment.'

14. It is the case of the respondent in both the petitions that the Firm has undertaken the construction of Building Complex Lab for ISAC at NAL Campus, Kodmaih, Bangalore, and the construction of Extension to High bay for ISAC at NAL Complex, Bangalore, as a Contractor. The term 'Contractor' is defined in Black's Law Dictionary, Fifth Edition, at Page 295 as under:

'Contractor.-- This term is strictly applicable to any person who enters into a contract, but is commonly reserved to designate one who, for a fixed price, undertakes to procure the performance of works or services on a large scale, or the furnishing of goods in large quantities, whether for the public or a company or individual. Such are generally classified as general contractors (responsible for entire job) and sub-contractors (responsible for only portion of job: e.g., plumber, carpenter).

A contractor is a person who, in the pursuit of any independent business, undertakes to do a specific piece of work for other persons, using his own means and methods without submitting himself to their control in respect of all its details, and who renders service in the course of an independent occupation representing the will of his employer only as to the result of his work and not as to the means by which it is accomplished. Setzer -v.- Whitehurst, Ky., 339 S.W. 2d 454, 456.

One who in pursuit of independent business undertakes to perform a job or piece of work, retaining in himself control of means, method and manner of accomplishing the desired result.'

15. The question for consideration is; Whether the Employment of the Firm of which A-1 and A-2 are partners, is the Employment carried on by or under the authority of the Central Government.

16. In Heavy Engineering Mazdoor Union -v.- State of Bihar and ors., : (1969) IILLJ549SC the Heavy Engineering Corporation Limited, Ranchi (the Company for short) was the Company incorporated under the Companies Act. Its entire share capital had been contributed by the Central Government and all its shares had been registered in the name of the President of India and certain Officers of the Central Government. It was a Government Company within the meaning of Section 617 of the Companies Act. The Memorandum of Association and the Articles of Association of the Company had conferred large powers on the Central Government including the power to give directions as regards the functioning of the Company. The wages and salaries of its employees had also been determined in accordance with the said directions. The Directors of the Company used to be appointed by the President of India. In its standing Orders, the Company had been described as a Government Undertaking. The Supreme Court, examining the meaning of the words used by the Parliament in the definition clause of 'appropriate Government' in the Industrial Disputes Act, 1947, held that the word 'authority', appearing in the definition clause of 'appropriate Government' in the Industrial Disputes Act, 1947, must be construed according to its ordinary meaning and, therefore, must mean a legal power given by one person to another to do an act. The Supreme Court further held that a person is said to be authorised or to have an authority when he is in such a position that he can act in certain manner without incurring liability to which he would be exposed but for the authority, or, so as to produce the same effect as if the person granting the authority had for himself done the act. The decision lays down that if A authorises B to sell certain goods for and on his behalf and B does so, B incurs no liability for so doing in respect of such goods, and confers a good title on the purchaser and that there clearly arises in such a case the relationship of a principal and an agent. According to the decision, the words 'under the authority of' mean pursuant to the authority, such as where an agent or a servant acts under or pursuant to the authority of his principal or master, and that a Company incorporated under the Companies Act whose constitution, powers and functions are provided for and

regulated by its Memorandum of Association and the Articles of Association, cannot be said to be carrying on its business pursuant to the authority of the Central Government.

17. Section 182 of the Contract Act reads thus :

'An agent is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done or who is so represented is called the 'principal' '.

18. The difference between the relations of master and servant and of principal and agent may be said to be this. A principal has the right to direct what work the agent has to do, but a master has the further right to direct how the work is to be done. An agent has to be distinguished on the one hand from a servant and on the other from an independent contractor. A servant acts under the direct control and supervision of his master, and is bound to conform to all the reasonable orders given by him in the course of his work. An independent contractor, on the other hand, is entirely independent of any control or interference and merely undertakes to produce a specified result, employing his own means to produce that result. An agent, though bound to exercise his authority in accordance with all lawful instructions which may be given to him from time to time by his principal is not, subject in its exercise to the direct control or supervision of the principal. An agent, as such, is not a servant, but a servant is generally for some purpose his master's implied agent, the extent of the agency depend upon the duties or position of the servant.

19. In these two cases, it Cannot be said that the Firm and its partners A-1 and A-2 were the servants of the National Aeronautical Limited, Bangalore, nor can they be construed as agents of the National Aeronautical Limited, a Department of the Central Government. As a matter of fact, the very allegations of the respondent would show that the Firm and its partners A-1 and A-2 had taken-up the construction of the building and construction of extension to High bay at N.A.L. Complex as independent contractors. There is no gainsaying the fact that while executing the construction works, the Firm and its partners were entirely independent of any control or interference either from the N.A.L. or the Central

Government and merely undertook to produce the specified results, viz., the construction of the building and extension to High bay employing their own means to produce the result.

20. In T.K. Verkey and Company and onere. -v.- Regional Labour Commissioner, Bangalore and Authority under the Minimum Wages Act, 1948, and two ors., W.P. No. 8398 DD 11-3-1985 the validity of the order made by the Regional Labour Commissioner (Central), Bangalore (Respondent 1) on the application filed by the Labour Enforcement Officer (Central), Bangalore (Respondent- 2) under Section 20(3) of the Minimum Wages Act, had been challenged, in this Court, in a Writ Petition. The question of law that arose for consideration was whether petitioner No. 1, the Company, who had entered into a contract with the Railway Administration of the Central Government for constructing buildings can be regarded as carrying on its business/industry by or under the authority of the Central Government and, therefore, liable to pay its workmen wages at the rates fixed by the Central Government under the Minimum Wages Act.

The facts were ; The petitioner was an independent building contractor and had entered into a contract for construction of the building with the Union Railways Wheel and Axle Plant, a part of the Administration of the Union Government. The work spot was situated at Puttenahalli Village, Yelahanka Hobli, Bangalore District. Respondent-2 had filed an application under Section 20(2) of the Minimum Wages Act before Respondent-1 stating that Petitioner No. 1 had not paid the minimum wages payable to its workmen in accordance with the Notification issued by the Central Government under the provisions of the Minimum Wages Act, 1948 and had prayed for an order under Section 20(3) of the said Act to direct petitioner No. 1 to pay the difference of wages for the period from 27-2-1983 to 28-3-1983 as also compensation in a sum of Rs. 47,020/- to the concerned workmen. Respondent No. 2 had also prayed that petitioner No. 1-Company should be directed to Day the difference of wages and compensation. Petitioner 1- Company had raised objection before the concerned authority to the effect that the Notification issued by the Central Government under the provisions of the Minimum Wages Act, 1948 had no application to the case of the Company as it was not carrying on the work by or under the authority of the Central Government

or the Railway Administration and consequently there was no relationship of principal and agent between it and the Central Government. The objection had been overruled. This Court, following the principle laid down in *Bharateeya Mazdoor Sangh -v.- T.R.R. Canteen*, 1978 (53) FJR 356 answered the question of law in the negative and held that petitioner-1 Company was not liable to pay wages at the rate fixed by the Central Government under the provisions of the Minimum Wages Act and that, therefore, Respondent-2 had no jurisdiction to initiate action for enforcement of the payment of wages fixed under the provisions of the said Act by the Central Government against petitioner-2- Company and that Respondent-1 had no jurisdiction to pass the order challenged in the Writ Petition.

21. Under Section 2(b) of the Minimum Wages Act, 1948, the expression 'appropriate Government' is defined as under :

'2. (b) 'appropriate Government' means--

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a mine, oil-field or major port, or any corporation established by & Central Act, the Central Government ; and

(ii) in relation to any other scheduled employment, the State Government.'

22. In *Bharateeya Mazdoor Sangh's case*³, the question for consideration was, whether the wages fixed by the Central Government under the provisions of the Minimum Wages Act was applicable to the employees of Railway Canteen at Mangalore. The contention of the petitioner therein was that it was not applicable, whereas the respondent therein had contended that the employment under the Railway Canteen was by or under the authority of the Railway Administration/Central Government and that, therefore, the wages fixed by the State Government under the Minimum Wages Act, 1948 was inapplicable. The contention of respondent therein was negated. The Judgment reads :

'..... I do not think that the canteen run by a private person in a railway premises under the aforesaid terms and conditions of a licence and with the help or

assistance of the railway department can be regarded as an agent of the railways and, consequently as carrying on the canteen under the authority of the railway administration. In the nature of things as it is obligatory for the railways to provide canteen facilities for the passengers and the visitors of a railway station, the railway authorities provide for the necessary accommodation and furniture for running a canteen. It is quite natural that railway authorities exercise certain control and supervision over such canteens. This does not however convert a canteen run by a private person under a licence from the railway authorities into a canteen run under the authority of railways. As observed earlier, the owner of the canteen is not an agent of the railway administration. Further, any profit or loss occurring in the course of the business of the canteen has to be borne only by the 1st respondent and not by the railways. Therefore, there is no substance in the contention of the 1st respondent that the canteen is carried on under the authority of the Central Government and, therefore, only the Central Government has the power to fix minimum wages under the Act.

In the light of the above discussion, my conclusions are as follows :

(i) There is nothing in Section 135 of the Railways Act to hold that a railway canteen situated in the railway station within the municipal area of Mangalore City Municipal Council is not within the municipal area.

(ii) The railway canteen run by the 1st respondent, under a licence from the railway authorities, is not one under the authority of Railway Administration and, therefore, the State Government is competent to fix minimum wages of employees working in the said canteen under Section 3 of the Minimum Wages Act.

(iii) The petitioner is entitled to the minimum wages fixed by the State Government in their notification dated 1st June, 1977.'

23. In Heavy Engineering Mazdoor Union's case¹, referred to earlier, the Supreme Court held that the expression 'an industry carried on by or under the authority of the Central Government', as used in the definition of the expression 'appropriate Government' in Section 2(a) of the Industrial Disputes Act, 1947, would mean pursuant to the authority such as where an agent or a servant acts under or

pursuant to the authority of his principal or master. The Supreme Court took notice of the fact that the entire share capital of the Heavy Engineering Corporation Limited had been contributed by the Central Government and extensive powers had been conferred on it and yet, the Corporation was none other than a Company and could not be said to be an industry carried on by or under the authority of the Central Government. It was held in the said decision that the case would be covered by the residuary clause and the appropriate Government was held to be the State Government and the Reference under Section 10 of the Industrial Disputes Act, 1947, made by the State of Bihar was held competent.

24. In *Rashtriya Mills Mazdoor Sangh, Nagpur -v.- The Model Mills, Nagpur and Anr.*, : (1984)IILLJ507SC while interpreting more or less an identical expression occurring in Section 32(iv) of the Payment of Bonus Act 1965, the Supreme Court held that in relation to an undertaking in textile industry in respect of which an authorised Controller was appointed under the provisions of the Industrial (Development and Regulation) Act, 1951, the appropriate Government was the State Government and not the Central Government observing that even where an authorised Controller was appointed by the Central Government, it merely substituted Board of Director of a Company managing the industrial undertaking by an authorised Controller appointed by the Central Government but, the undertaking nonetheless remains an undertaking managed under the provisions of the Companies Act, 1956, and it could not be said to be an undertaking in any industry carried on by or under the authority of the Central Government.

25. In *Food Corporation of India Workers' Union, -v.-Food Corporation of India and Ors.*, : [1985]3SCR150 a representative action had been brought on behalf of the Contract Labourers, working with the Food Corporation of India, Respondent-1 in the Writ Petition, distressed by the unhelpful attitude of both the Central and the State Governments in not redressing their grievances for either departmentalising them or in the alternative extending to them the benefit of the Contract Labour (Regulation and Abolition) Act, 1970. The petitioner had complained that the Central and the State Governments were playing hide and seek, one pointing to the other as the appropriate Government under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and were denying to them what was

their due.

26. The expression 'appropriate Government' is defined in Section 2(1)(a) of the Contract Labour (Regulation and Abolition) Act, 1970, as under :

'2(1)(a) 'Appropriate Government' means :

(1) in relation to--

(i) any establishment pertaining to any industry carried on by or under the authority of the Central Government, or pertaining to any such controlled industry as may be specified in this behalf by the Central Government, or

(ii) any establishment of any railway Cantonment Board, major port, mine or oil field, or

(iii) any establishment of a banking or insurance company, the Central Government.

(2) in relation to any other establishment the Government of the State in which that other establishment is situated.'

27. The Supreme Court, on a consideration of the entire matter and the placement of the expression 'appropriate Government' in the definition clause, and the purpose for which it is enacted, held that 'any industry carried on by or under the authority of the Central Government' should receive the same inter predation as was done in Heavy Engineering Mazdoor Union's case¹. The Supreme Court held that its approach in Rashtriya Mills Mazdoor Sangh's case⁴ holds good for the purposes of construction of the expression 'any industry carried on by or under the authority of the Central Government'.

28. Having regard to the law laid down by the Supreme Court in the three decisions, and in the two decisions of this Court referred to earlier, and the definition of the 'appropriate Government' given in Section 2(a) of the Act, the placement of the expression in the definition clause of the Act and the purpose for which it is enacted, it has to be held that the case of the Firm and its partners A-1 and A-2 would be covered by Section 2(a)(ii) of the Act (the residuary clause) Sub

clause (i) of Section 2(a) is not attracted. The Firm and its partners A-1 and A-2 are independent contractors and it cannot be said that their employment is the one carried on by or under the authority of the Central Government. The case of the Firm and its partners A-1 and A-2 would be governed by the residuary provision in Section 2(a)(ii) of the Act and the State Government would be the appropriate Government.

29. Once it is held, as it ought to be, then the complaints lodged by the Labour Enforcement Officer (Central), Bangalore and Inspector under the Act, in both the cases, made with the sanction of the Chief Labour Commissioner (Central), New Delhi (Central Government), in exercise of the powers delegated to him under Notification No. S.O.68(E) dated 28-1-1981 of the Ministry of Labour, published in Part-II, Section 3, Sub-section (ii) dated 28-1-1981 of Extraordinary Gazette of India, would be invalid and incompetent, the taking of cognizance of the offence, punishable under Section 10(1)(a) of the Act stated to have been committed by the Firm and its partners A-1 and A-2 (the subject matter in C.C. Nos. 874/85 and 875/85) by the learned Metropolitan Magistrate, V Court, Bangalore City, on the basis of the invalid complaints, is illegal and cannot be allowed to hold the field. The case of the Firm and its partners A-1 and A-2 calls for the exercise of the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure. In my considered view, the Firm and its partners A-1 and A-2 in both the petitions have shown that quashing of the proceedings commenced against them on the basis of the invalid complaints is necessary to secure the ends of justice.

30. I, therefore, allow Criminal Petitions Nos. 900/85 and 901/85. The proceedings commenced against the Firm and its partners A-1 and A-2 in C.C. Nos. 874/85 and 875/85 are hereby quashed.