

J.U. Prabhu Vs. State of Karnataka

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Court : Karnataka

Decided On : Sep-19-1985

Reported in : ILR1985KAR3633

Judge : Nesargi, J.

Acts : Contract Labour (Regulation and Abolition) Act, 1970 - Sections 27

Appeal No. : Crl. Petn. No. 692 of 1985

Appellant : J.U. Prabhu

Respondent : State of Karnataka

Advocate for Def. : S.S. Koti, HCGP

Advocate for Pet/Ap. : T.J. Chouta, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Nesargi, J.

1. This petition is filed under Section 482 of the Code of Criminal Procedure requesting that the proceedings before the Metropolitan Magistrate II Court in Criminal case No. 1921/85 be quashed.

2. The respondent filed the complaint in question on 1-6-1985. He complained that the accused had committed an offence by violating the provisions of Rule 81 of the Contract Labour (Regulation and Abolition) Central Rules, 1971 hereinafter referred to as the Rules and therefore was liable to be punished for having committed the offence under Section 24 of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the Act).

3. Certified Copy of the complaint is produced. It makes out that the respondent inspected the establishment in question on 27-2-1985 and observed the irregularities mentioned in para 4. It further states in para 5 that there-after, the respondent issued inspection report-cum-show-cause-notice No. Cl. (Cont) PE (24) 85-86 dated 27-2-1985 and sent the same by registered post acknowledgment due. It is prayed in the complaint that the petitioner-accused be punished in accordance with law. Sri T.J. Chouta, Learned Counsel appearing on behalf of the petitioner urged that the complaint is lodged beyond the period of limitation prescribed under Section 27 of the Act and therefore, the Magistrate was not competent to take cognizance of the offence and as such, the proceeding in question are bad in law.

4. Sri. Koti, learned Government Pleader drew my attention to the provision under Section 27 of the Act. Section 27 of the Act reads as follows :-

'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 alleged commission of the offence came to the knowledge of an Inspector.'

In this connection, Sri. Koti referred to para 5 of the complaint and urged that the respondent had sent a registered notice on 27-2-1985, acknowledgment due and there-fore, the period of limitation prescribed in the provision referred to above would be applicable and such, complaint is in time. What is contained in para 5 of the complaint has been already narrated. It is nowhere stated therein that the respondent has issued an order to the petitioner and that the petitioner had disobeyed that order. Mere sending of a notice by registered post acknowledgment due cannot by any stretch of imagination be considered as an order having been passed by the respondent and the same having been

disobeyed. Therefore, the provision of Section 27 of the Act applies. It is observed that the prosecution has been launched beyond three months from 27-2-1985. Hence, the Learned Magistrate had no competence to take cognizance of the offence and issue summons to the petitioner.

5. In the result, this Petition is allowed, and the proceedings in CC. 1921 of 1985 in the Court of Metropolitan Magistrate II Court, Bangalore City are quashed.

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