

State Vs. Jamnadas Vasanji

State Vs. Jamnadas Vasanji

SooperKanoon Citation : sooperkanoon.com/733226

Court : Gujarat

Decided On : Aug-14-1961

Reported in : (1962)0GLR136; (1962)IILLJ80Guj

Judge : P.N. Bhagwati, J.

Acts : [Factories Act, 1948](#) - Sections 62 and 92

Appeal No. : Criminal Revision Application Nos. 110, 111 and 112 of 1961

Appellant : State

Respondent : Jamnadas Vasanji

Judgement :

1. This group consists of three criminal revision applications concerning three workers employed in the factory, namely, Shanta, Savita and Nirmala. The allegation of the prosecution was that the accused as the manager of the factory did not maintain a register of adult workers showing the names of these three workers and that a distinct and separate offence under S. 62(a) read with S. 92 of the [Factories Act, 1948](#), was, therefore, committed by the accused in respect of each of these three workers and three different cases were accordingly filed against the accused. The learned magistrate consolidated all the three cases into one and on the accused pleading guilty, passed a single sentence of fine of Rs. 10 or in default simple imprisonment for seven days. The State has, therefore, filed this group of criminal revision applications complaining against the passing of one

single sentence of fine in three cases and praying for enhancement of the sentence.

2. Turning to S. 62 of the Act, I find that under that section the manager of every factory is under an obligation to maintain a register of adult workers showing various particulars set out in Cls. (a) to (e) of that section. The failure to maintain a register of adult workers as required by S. 62 constitutes an offence punishable under S. 92. It is the failure to maintain a register of adult workers showing the various particulars set out in S. 62 that constitutes the offence. If any one of the particulars set out in S. 62 is not contained in the register of adult workers, there is a breach of the provisions of that section and the manager of the factory would be punishable under S. 92. A separate and distinct offence is not committed in respect of each particular which is omitted to be shown in the register of adult workers but it is the failure to maintain a register of adult workers showing the various particulars that constitutes the offence, whether the particulars be one, two or several. Clause (a) of S. 62 requires that the register of adult workers should show the name of each adult workers in the factory. If the name of any adult worker in the factory is not shown in the register of adult workers, that would amount to a failure to maintain a register of adult workers as required by S. 62 and would attract the penal provision contained in S. 92. Whether the name of one adult workers in the factory is not shown or whether the names of several adult workers in the factory are not shown is immaterial, for in either case there is a failure to maintain a register of adult workers as required by S. 62 and this constitutes a single offence. I am, therefore, of the opinion that no separate and distinct offences were committed by the accused by failure to show the names of Shanta, Savita and Nirmala in the register of adult workers. There was one single offence committed by the accused by his failure to maintain a register of adult workers showing the names of Shanta, Savita and Nirmala. The learned magistrate was, therefore, perfectly justified in imposing a single sentence against the accused. I, however, find that the sentence of fine imposed by the learned magistrate is unduly lenient. As pointed out by Gajendragadkar, J., in a judgment delivered by him on 3 September 1954, in Criminal Revision Application No. 803 of 1954,

'in passing orders of sentence for breach of the conditions laid down by the Factories Act, criminal Courts must bear in mind the beneficial purposes which the provisions of the Act are intended to serve.'

3. In my opinion, the sentence of fine of Rs. 10 imposed by the learned magistrate is not in consonance with these observations of Gajendragadkar, J.

4. I, therefore, enhance the sentence of fine to Rs. 30 and direct that in default of payment, the accused shall suffer simple imprisonment for ten days.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com