

State of Gujarat Vs. Krishna Engineering Works

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Court : Gujarat

Decided On : Oct-11-1990

Reported in : (1991)2GLR744; (1999)IIILLJ401Guj

Judge : K.J. Vaidya, J.

Acts : [Minimum Wages Act, 1948](#) - Sections 12 and 18; Gujarat Minimum Wages Rules, 1961; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 252

Appeal No. : Cr.A. Nos. 683 and 697/1983

Appellant : State of Gujarat

Respondent : Krishna Engineering Works

Advocate for Pet/Ap. : S.T. Mehta, Addl. P.p.

Disposition : Appeal allowed

Judgement :

Vaidya, J.

1. These two appeals for enhancement of the sentences filed by the State of Gujarat are directed against the judgment and order dated April 6, 1983 rendered in two Criminal Cases No. 55 of 1983 and 56 of 1983 by the learned J.M.F.C., Gandevi, wherein the respondent The Krishna Engineering Works' which came to

be prosecuted for the alleged offence under Sections 18 and 22 of the [Minimum Wages Act, 1948](#) (for short referred to as 'the Act') in respect of the contravention of Rules 22, 26-A, 26-B, 26-D of the Gujarat Minimum Wages Rules, 1961 (for short 'the Rules') pleaded guilty and was accordingly convicted for the same and sentenced to pay a fine of Rs. 40/- and in default to undergo S.I. for two days and eight days respectively in two cases.

2. In short, it was the prosecution case that on August 25, 1982, Mr. M.D. Trivedi, Minimum Wages Inspector, Valsad, when in the course of his duty visited and inspected 'The Krishna Engineering Works' at Bilimora of the ownership of Mr. K.N. Panchal, it was found that certain provisions of the Rules under the Act had been contravened in the manners such as : (i) when asked to produce the register of wages and attendance register as required to be kept under Rules 26-D, the same was not produced; (ii) the attendance cards of the employees as required to be kept under Rule 26-B were not kept; (iii) the inspection book which is required to be maintained under Rule 26-A was not kept; (iv) notices containing minimum rates of wages fixed together with abstracts from the Act, the Rules made thereunder etc. not displayed as required under Rule 22 of the Rules. On the basis of these facts, Mr. M. D. Trivedi, the Inspector of Minimum Wages filed two complaints on August 13, 1982 against The Krishna Engineering Works, Bilimora, of the ownership of Mr. K.N. Panchal for the alleged contravention of Rules 22, 26-A, 26-B and 26-D of the Rules read with Sections 18 and 22 of the Act before the learned J.M.F.C., Gandevi, who after registering the same as criminal cases directed issuance of the summons against the accused. On January 29, 1983 in response to the summons issued, the accused appeared before the Court. However, the case was adjourned to February 16, 1983 for recording the plea of the accused. As usual, the proceedings went on being adjourned from time to time for recording mere plea of the accused, which was ultimately recorded on April 6, 1983. On that day the accused pleading guilty, he came to be convicted and sentenced for the alleged offences as stated in para 1 of this judgment. Hence, aggrieved by the said unduly lenient order of sentence, the State of Gujarat has filed these two appeals for enhancement of the sentences.

3. Mr. ST. Mehta, the learned Addl. P. P. while challenging the impugned order sentencing the accused to pay a fine of Rs. 40/- only, submitted that the same was unduly lenient and manifestly unjust taking into consideration the seriousness and gravity of the alleged contravention of the Rules. Mr. Mehta further submitted that imposition of such a small amount of fine was practically no punishment at all as the same cannot have any deterrent effect upon the accused. Mr. Mehta inviting attention of this Court to a decision in the case of State of Gujarat v. Pitolwala Auto Centre Co. and Anr., reported in 1979 GLR 605 submitted that as far back as in the year 1978 this Court (CORAM: M.K. SHAH, J.) has taken a view that 'pleading guilty by itself is not sufficient ground for taking a too lenient view of the matter while awarding sentence, and yet we find that in number of such cases the same mistake of awarding a trivial sentence of fine on accused pleading guilty is surprisingly going on'. Mr. Mehta further submitted that these are the cases wherein despite pleading guilty a serious view deserves to be taken and accordingly exemplary punishment must be inflicted upon the accused. Mr. S.T. Mehta finally submitted that the fine of Rs. 40/- being ridiculously low must be enhanced to the maximum possible with a view not only to deter the accused from repeating the alleged offences in future but also to deter other factory owners from alighting the provisions of the Rules under the Act.

4. Despite service of the notice, the respondent has chosen not to appear before this Court and therefore, it can safely be assumed that he has nothing to say in the matter.

5. Now, taking into consideration the facts and circumstances of this case, this Court finds no difficulty in accepting the submissions made by the learned Addl. P. P. There is no doubt whatsoever that the sentence of fine to the tune of Rs. 40/- only is merely a flee-bite and therefore, ridiculous and unjust. It appears that the learned Magistrate somehow appears to have lost sight of the fact that 'the provisions of the Act are intended to achieve the object of doing social justice to workmen employed in scheduled employments by prescribing the minimum rate of wages for them. The legislative policy which is apparent on the face of the enactment itself is a statutory fixation of minimum wages with a view to obviate the chances of exploitation of labour' (as observed by the Supreme Court in many

cases). Thus, to take the contravention of the Rule lightly is not at all a way of furthering the social justice in the expected light and spirit of the beneficial labour legislation. It is painful to note that though the [Minimum Wages Act, 1948](#) and Rules thereunder namely, 'Gujarat Minimum Wages Rules, 1963' came into force about 42 years and 27 years back respectively and yet if the exploitation of the labourers is not arrested and controlled to the desired extent and unfair practice of flouting the provisions of Rules and Act goes on, then to some extent the responsibility will have to be shared by the Courts of law as well because of unduly soft and unconcerned attitude shown to the employers while inflicting the punishments on them. Merely because the accused pleads guilty that by itself is hardly a ground to take a too lenient view of the matter. In fact, it should not be difficult for the learned Magistrate to distinguish whether the plea of guilty advanced by the accused is honest and sincere or is one put forward with a view to avoid schemingly the possible maximum punishment the learned Magistrate may impose. It is desirable that in cases under social-beneficial pieces of legislation like the one in the instant case, in order to further the social objectives of protecting otherwise helpless needy labourers, the exemplary and deterrent punishments are imposed unless of course there are some genuine circumstances made out by the employers warranting a lenient view of the matter. In fact, before passing any order of sentence, the learned Magistrate must invariably ask himself whether the sentence he intends to impose upon the accused will in any way meet with the ends of justice, that is to say, whether it is such which will protect and serve further the object and interest of the Act or whether it is such which would undermine the respect for the law under which the accused is tried and convicted ?, whether it will in any way fail to have the desired impact on persons found committing such offences etc.? If this care is taken while awarding sentence, then this Court is sure that the learned Magistrates will find themselves better secured on the path of doing justice instead of wandering away from the same.

5.A. Mr. S. T. Mehta, the learned Addl. P. P. is also right when he submitted that as far back as in the year 1978, this Court (M. K. SHAH, J) has held that 'pleading guilty in such type of cases should not be taken as a good ground for awarding a too lenient sentence' and yet, the said decision is not heeded to. Now in this regard what can be wished is that it will be good if all the learned Magistrates are

aware of or made aware of the important decisions on the point involved given by the superior Courts at the time of hearing of such cases. However, all these ultimately depend upon the social orientation, experience and desire of the learned Magistrate to remain up-to-date with the decisions on the point involved and the assistance rendered by the prosecution to the learned Magistrate trying such cases. In fact what is really important is the vigilance of the Factory Inspector who launches the prosecution and the learned P. P. in-charge of the cases. These are the persons who are equally duty bound to bring to the notice of the learned Magistrate important decisions on the point involved like the one in the instant case when the accused pleads guilty, and yet why the agency also repeatedly failed to take this much amount of desired care is also a matter of monetary.

6. Turning back to the facts of the present case, having held that the learned Magistrate has unquestionably imposed unduly lenient sentence, the question that remains to be answered is what would be the just and proper sentence which can be said to meet with the ends of justice Mr. S. T. Mehta, the learned Addl. P. P. submitted that for the alleged offence, the sentence provided in Section 32 of the Act is imprisonment for the term which may extend to six months or with fine of Rs. 500/- or both. He further submitted that taking into consideration the fact that the alleged offence is of the year 1983 and much waters have flown thereafter, the State would be satisfied if the accused is awarded a fine of Rs. 500/- on each count without sending him to the Jail. This indeed is quite fair of the learned Addl. P. P. In this case, at this stage, there is no question of sending the accused to the Jail; but at the same time, taking into consideration the facts of these cases as well as the overall interest and objective of the social justice, the amount of fine imposed by the learned Magistrate of Rs. 40/- only deserves to be enhanced to Rs. 400/- for each of the offences.

7. In the result, these two appeals are allowed. Accordingly, the sentence of fine is enhanced from that of Rs. 40/- to Rs. 400/- for each of the offences, totalling to Rs. 1,600/- in default, to undergo S. I. for 15 (fifteen) days. The accused is further directed to pay the amount of fine on or before December 31, 1990. The office is directed to communicate the order of this Court to the accused.

