

G.N. Murthy Vs. Commr. for Workmen's Compensation, Madras

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Court : Chennai

Decided On : Feb-25-1954

Reported in : AIR1954Mad1154; 1955CriLJ71; (1954)IILLJ715Mad

Judge : Somasundaram, J.

Acts : [Payment of Wages Act, 1936](#) - Sections 15 and 17; [Code of Criminal Procedure \(CrPC\) \(CrPc\), 1898](#) - Sections 439

Appeal No. : Criminal Misc. Petn. Nos. 11 and 13 of 1954

Appellant : G.N. Murthy

Respondent : Commr. for Workmen's Compensation, Madras

Advocate for Def. : State Prosecutor

Advocate for Pet/Ap. : N. Panchapakesa Aiyar, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Somasundaram, J.

1. These two applications arise out of applications made by the Commissioner for Workmen's Compensation, Madras, to the 6th Presidency Magistrate for

realisation of the amount directed to be paid by the petitioners under the Payment of Wages Act. When the authority which passed such an order is not a Magistrate, under Section 15(v)(b), [Payment of Wages Act, 1936](#), the amount may be recovered by any Magistrate to whom the authority makes an application in this behalf as if it were a fine imposed by such Magistrate. The Commissioner has therefore made this application before the Sixth Presidency Magistrate for the recovery of the amount ordered by him as if it were a fine. These two petitions have been filed to quash those proceedings as the Magistrate has Issued a warrant, for the recovery of the amount mentioned. Against an order directing such payment an appeal lies under S. 17 of the Act to the Small Cause Court in the Presidency town of Madras and elsewhere before the District Court. That appeal has been preferred and is pending.

2. It appears that the Small Cause Court holding that there is no power to grant stay did not grant stay. Therefore application is made to this Court for not only quashing the proceedings before the Magistrate but also for stay of these proceedings. So long as the order directing that payment is not set aside, fine which is only a consequential order cannot be stayed from being recovered. The Court of the Magistrate cannot go into the question whether the order of the Commissioner is a valid one or is passed without jurisdiction.

The contention of the learned counsel is that the order of the Commissioner is passed without jurisdiction as it does not amount to wages. The question as to whether the same comes within the definition of wages or not is well within the jurisdiction of the Commissioner to decide and if he decides that it may be right or it may be wrong. Assuming that the decision is wrong, it cannot be said that the Commissioner has no jurisdiction to decide the question. The order cannot, therefore, be said to be 'prima facie' wrong. Until the appellate Court sets it aside, the order of the Commissioner must be considered to be a valid one and has to be enforced. It is true that the provisions relating to appeal do not make any provision for the appellate Court to stay executing the order. It is an unfortunate omission and there is a lacuna in the Act. I think it is necessary to empower the appellate Court with powers to stay in appropriate cases the operation of the order passed by the Commissioner. If the appellate Court has no such power, then it cannot be

questioned either by the Magistrate or even by this Court in revisional jurisdiction. As it is, I think I have no power to quash the issue of the warrant for the recovery of the fine.

3. The petitions are therefore dismissed.

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