

M.S. Prasad and Another Vs The State of Andhra Pradesh and Another

Court: Andhra Pradesh High Court

Date of Decision: July 25, 2013

Citation: (2013) 4 LLN 494 : (2013) LLR 1057

Hon'ble Judges: R. Kantha Rao, J

Bench: Single Bench

Advocate: K. Lakshman, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

R. Kantha Rao, J.

Heard the learned counsel for the petitioners and the learned Addl. Public Prosecutor appearing for the respondents.

The 2nd respondent-Assistant Commissioner of Labour-III, Hyderabad and Inspector under Contract Labour (Regulation & Abolition) Act,

1970, (for short, "the Act") filed a complaint against the petitioners alleging that the petitioners have acted in contravention of the provisions of Rule

75, Rule 76, Section 29 read with Rule 78 and Rule 78(1)(b) of the Act and AP Rules 1971 and also contravened the provisions of the Act and

AP Rules, 1971 and thus they are liable for punishment under Sections 23 and 24 of the Act.

2. Learned XII Addl. Chief Metropolitan Magistrate, Hyderabad, took cognizance of the case and the same is numbered as STC No. 82 of 2013.

This criminal petition is filed to quash the said STC No. 82 of 2013.

3. Learned counsel for the petitioners referred to Section 27 of the Act, which reads as under:--

27. Limitation of prosecutions:--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 the alleged commission of the offence came to the knowledge of an inspector.

Provided that where the offence consists of disobeying a written order made by an inspector, complaints thereof may be made within six, months

of the date on which the offence is alleged to have been committed.

4. Learned counsel submits that in the light of Section 27 of the Act, 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 the alleged commission of the offence came to the knowledge of an

inspector. Learned counsel further stated that under proviso to Section 27 of the Act where a writing order is made by an inspector, complaints

thereof can be made within six months from the date on which the offence is alleged to have been committed. Learned counsel for the petitioner

submits that taking cognizance of the case by the Court is barred by Section 27 of the Act as complaint was filed after a lapse of 7 1/2 months

from the date of occurrence of the alleged offence. In the instant case, the Inspector inspected the premises in question on 18-7-2012, but filed the

complaint on 5-3-2013, i.e., after a lapse of 7 1/2 months from the date of the alleged violation came to the notice of the complainant-inspector. In

view of Section 27 of the Act, the learned XII Addl. Chief Metropolitan Magistrate, Hyderabad, ought not to have taken cognizance of the

offence as prosecution thereof is barred u/s 27 of the Act, if the complaint is made after a period of six month from the date of written order made

by the inspector, or three months from the date of the alleged commission of the offence came to the knowledge of the inspector. Therefore, the

impugned proceedings in STC No. 82 of 2013 on the file XII Addl. Chief Metropolitan Magistrate, Hyderabad, are quashed and the criminal

petition is allowed. Miscellaneous petitions if any pending also stand disposed of.