(2014) 2 RCR(Criminal) 273 : (2014) 2 SCT 827

Delhi High Court

Case No: Criminal L.P. 240 of 2013

State of Nct of Delhi — APPELLANT

Vs

Kulvinder Singh — RESPONDENT

Date of Decision: July 3, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 378(4)
- Minimum Wages Act, 1948 - Section 22A

Citation: (2014) 2 RCR(Criminal) 273 : (2014) 2 SCT 827

Hon'ble Judges: S.P. Garg, J

Bench: Single Bench

Advocate: M.N. Dudeja, app, for the Appellant;

Judgement

S.P. Garg, J.

State has preferred Criminal Leave Petition u/s 378(4) Cr.P.C. to file appeal against judgment/order dated 08.07.2011 of learned Metropolitan Magistrate by which the complaint case filed u/s 22A of Minimum Wages Act, 1948 was dismissed for non-prosecution. I have heard the learned counsel for the petitioner and have examined the record. Trial Court record reveals that complaint case u/s 22A of Minimum Wages Act, 1948 was filed by complainant/Inspector-Joginder Singh against the respondent on 18.12.2009. Vide order dated 22.12.2009, the learned Metropolitan Magistrate summoned the respondent for 09.03.2010. On 09.03.2010, none appeared on behalf of the complainant before the Court. Court notice was ordered to be issued to the concerned Inspector for 07.06.2010. On 07.06.2010, again none appeared on behalf of the complainant and the matter was adjourned for 27.08.2010. On that day, there was no appearance on behalf of the complainant and the matter was relisted for 15.01.2011. Again, there was no appearance on behalf of the complainant and the case was adjourned for 08.07.2011. When none appeared on 08.07.2011 also despite service of Court notice, despite repeated calls, the complaint case was dismissed for non prosecution/default and the respondent was acquitted. I find no illegality or irregularity in

the impugned order. When none had appeared on various dates before the Trial Court on behalf of the complainant, the Court had no alternative but to dismiss the complaint case for non-appearance and non prosecution. At no stage either the complainant or anybody else on his behalf appeared before the Court to pursue the matter. No application for exemption of the complaint was ever moved. It appears that the complainant and the department did not bother to pursue the complaint case for about two years. When serious view was taken by the Trial Court in the impugned order and action was recommended, the department came into motion and that imposing minor penalty of ''censure'' upon the complainant. Similar was the fate in other cases-Crl. L.P. 238/2013 ''State vs. Shyam'', Crl. L.P. 241/2013 ''State vs. Jaidev Prasad'' & Crl. L.P. 242/2013 ''State vs. Naveen''.

2. Since the complainant was not at all diligent in pursuing the matter on repeated dates, I find no sufficient ground to grant leave to the State to file appeal against the impugned order/judgment. The leave petition is dismissed. Trial Court record be sent back forthwith with the copy of the order.