

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.NAVANITI PRASAD SINGH

MONDAY, THE 30TH DAY OF OCTOBER 2017/8TH KARTHIKA, 1939

CrI.MC.No. 3832 of 2014

AGAINST THE ORDER/JUDGMENT IN ST 6142/2013 of J.M.F.C.-I, PUNALUR
DATED

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PETITIONERS/ACCUSED :

1. S. RAMAKRISHNA SARMA
CHAIRMAN, TRAVANCORE RUBBER & TEA COMPANY LTD,
PATTOM PALACE P.O., TRIVANDRUM - 695 004.
2. SRI.SAKTHYKUMAR
MANAGER, TRAVANCORE RUBBER & TEA COMPANY PVT.LTD,
AMBANAAD ESTATE, KALTHURUTHY P.O., KOLLAM.

BY ADVS.SRI.V.ABRAHAM MARKOS
SRI.BINU MATHEW
SRI.ABRAHAM JOSEPH MARKOS
SRI.ABRAHAM VARGHESE THARAKAN
SRI.JOSEPH KODIANTHARA (SR.)

RESPONDENTS/1ST & 2ND RESPONDENT :

1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
OFFICE OF THE ADVOCATE GENERAL, HIGH COURT
BUILDINGS, ERNAKULAM, KOCHI - 682 031.
2. THE INSPECTOR OF PLANTATIONS
PATHANAPURAM, KOCHI - 691 533

R1 & R2 BY PUBLIC PROSECUTOR, SRI.C.S. HRITHWIK (SR.)

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
30-10-2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

ANNEXURE-A: CERTIFIED COPY OF COMPLAINT DATED 28.11.2013 IN
S.T.NO.6142/2013 FILED BY THE 2ND RESPONDENT BEFORE
THE HON'BLE FIRST CLASS JUDICIAL MAGISTRATE I, PUNALUR.

ANNEXURE-B: TRUE COPY OF INSPECTION ORDER DATED 23.9.2013 ISSUED
BY THE 2ND RESPONDENT

ANNEXURE-C: TRUE COPY OF SHOW CAUSE-CUM-PROSECUTION NOTICE
DATED 26.10.2013 ISSUED BY THE 2ND RESPONDENT

ANNEXURE-D: TRUE COPY OF JUDGEMENT DATED 12.11.2013 PASSED BY THIS
HON'BLE COURT IN WPC NO.26718/2013

ANNEXURE-E: TRUE COPY OF LETTER DATED 16.11.2013 ISSUED BY THE
1ST PETITIONER TO THE 2ND RESPONDENT

ANNEXURE-F: TRUE COPY OF LETTER DATED 16.11.2013 ISSUED BY THE
2ND PETITIONER TO THE 2ND RESPONDENT

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PS TO JUDGE

Navaniti Prasad Singh, C.J.

Crl. M.C. No. 3832 of 2014

Dated this the 30th day of October, 2017

O R D E R

By this application under Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of complaint in S.T. No.6142/2013, which is pending on the files of the Judicial First Class Magistrate Court I, Punalur.

2. I have heard the parties and with their consent, I am disposing of the application at this stage itself.

3. The 1st petitioner is the Chairman of M/s.Travancore Rubber & Tea Company Limited which undertakes the work of rubber plantation and the 2nd petitioner is the Managing Director of the said Company. The 2nd respondent is the Inspector of Plantations and is represented by the Public Prosecutor.

3. The present complaint was filed *inter alia* alleging that, on 30.08.2013, the 2nd respondent conducted an inspection at the Ambanaad Estate of the petitioners and found certain derelictions, pursuant whereto, on 23.09.2013, an inspection order was issued with directions to make certain compliance and

rectify certain defects. There being no compliance shown, on 26.10.2013, a show cause cum prosecution notice was issued by the 2nd respondent to the petitioners, but no compliance was shown. The petitioners filed reply which was unsatisfactory and hence, prosecution was lodged under the Minimum Wages Act, 1948 for violation of various provisions therein and the rules framed thereunder.

4. The complaint was filed on 28.11.2013. Learned counsel for the petitioners submits that on reading the complaint it would be evident that it admits that the petitioners filed a reply to the show cause cum prosecution notice. Deliberately, the 2nd respondent, even though being a responsible officer, has chosen not to bring it on record and the reason is simple. In that reply itself, the petitioners had disclosed that there had been serious labour unrest in the plantation so much so that, on and after 11.10.2013, the labourers had seized the plantation and thrown out the management. The management was forced to approach this Court for police protection order and after hearing, by judgment dated 12.11.2013, this Court issued protection order.

All these were contained in the reply to the show cause that was filed by the petitioners on 16.11.2013. It was further stated that the management was unable to get the possession and hence unable to comply with the directions issued in the inspection order. They had sought time to comply as soon as possible after possession is restored. It is submitted on behalf of the petitioners that for this reason alone, though all the materials were available in the reply itself in defence to the prosecution, the Inspector of Plantations has not appended the reply while filing the complaint which facts as stated in the reply redress the complaint itself and it is clearly an abuse of process of the Court.

5. I have heard the parties and perused the documents including the reply as filed and acknowledged in the complaint itself. If what is stated in the reply to the show cause is taken into account, then, there is no case for prosecution at all. The prosecution would be *malafide* in fact and in law. The complainant alleges that pursuant to the inspection, inspection order was issued for compliance. The complaint is that no compliance is shown and in spite of notice, the reply is

unsatisfactory. As I have already noted, reply fully explains the position. That being so, in my view, it would clearly be an abuse of process of Court to allow the prosecution to continue. Accordingly, it is a fit case in which this Court should exercise its power under Section 482 of the Code of Criminal Procedure and quash the complaint as aforesaid. Consequently, the Magistrate is restrained from proceeding further in the matter. The prosecution case is closed accordingly and this application is allowed.

Sd/-
Navaniti Prasad Singh,
Chief Justice.

ttb/30/10