



CNR: KAHC010421302019

NC: 2026:KHC:36152
CRL.P No. 7340 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO.7340 OF 2019

BETWEEN:

- 1 . SRI M. VENKATESH
THE OCCUPIER,
MANAGING DIRECTOR,
M/S. MANGALORE REFINERY AND
PETROCHEMICALS LTD.,
P.O. KUTHETOOR VIA KATIPALLA,
DAKSHINA KANNADA,
MANGALURU - 575 030.
- 2 . SRI M. VINAYAKUMAR
THE FACTORY MANAGER,
DIRECTOR (REFINERY),
M/S. MANGALORE REFINERY AND
PETROCHEMICALS LTD.,
P.O. KUTHETOOR VIA KATIPALLA,
DAKSHINA KANNADA,
MANGALURU - 575 030.

...PETITIONERS

[BY SRI ASHOK HARANAHALLI, SR. COUNSEL FOR
SRI SRINIVASA RAO S.S., ADVOCATE (PH)]

AND:

STATE OF KARNATAKA
BY SRI H.S.NARENDRABABU,
DEPUTY DIRECTOR OF FACTORIES,
DIVISION-I,
MANGALURU - 575 030.

...RESPONDENT

(BY SMT.SOWMYA R., HCGP)





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THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE COMPLAINT AND THE ENTIRE PROCEEDINGS IN C.C.NO.3286/2019 REGISTERED AGAINST THE PETITIONERS FOR THE OFFENCES P/U/S 92 OF THE FACTORIES ACT, PENDING ON THE FILE OF THE II JUDICIAL MAGISTRATE FIRST CLASS, MANGALURU.

THIS PETITION IS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 22.06.2026, THIS DAY, THE COURT, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

CAV ORDER

Challenging proceedings in CC no.3286/2019 on file of II JMFC, Mangaluru for offence punishable under Section 92 of Factories Act, 1948 (**Act**), this petition is filed.

2. Sri Ashok Haranahalli, learned Senior Counsel appearing for Sri SS Srinivasa Rao, advocate for petitioners submitted that petitioners were accused no.1 and 2 (**petitioners**) in complaint filed by respondent (**complainant**) before learned Magistrate alleging that at 2:30 p.m., on 04.05.2019, Chief Safety Officer of M/s. Mangalore Refinery and Petrochemicals Limited (**MRPL**) submitted Form no.17 stating that Wakil Kumer, a contract worker of M/s. Akash



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Construction, who was carrying out grinding work at 2nd floor of Tech Structure – D in Petro Fluidized Catalytic Cracking Unit at 12:30 p.m., was hit by pipeline being cut nearby, due to which he fell on flange of cooling water line and sustained injuries to his head, died at 3:00 p.m. during treatment at AJ Hospital, Mangalore. Thereafter, complainant visited premises for inquiry into fatal accident. During inquiry it was noticed by complainant that accidental tilting of pipe and hitting workman was not foreseeable, non-adoption of safety measure of PP Rope to prevent flinging amounted to contravention of Rule 4 of Karnataka Factories Rules, 1969 (**Rules**) and therefore occupier and manager were liable for prosecution.

3. It was submitted on receipt of said complaint, learned Magistrate had taken cognizance on 07.08.2019, by merely stating that *there were sufficient grounds to proceed* and dispensing with recording of sworn statement. Aggrieved by initiation of proceedings, this petition was filed.

4. It was firstly, submitted, incident had occurred on 04.05.2019, prior to petitioner no.1 taking charge on



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11.07.2019, therefore initiation of proceedings against him would be illegal if not abuse of process. Secondly, Section 92 of Act provides for prosecution for violation of provisions of Act and Rules. But complaint did not mention any specific provision violated. Therefore, prosecution would be without basis.

5. Thirdly, employer of worker was M/s. Akash Construction, a contractor to whom MRPL had assigned grinding work and as such was not a direct employee of MRPL. It was submitted, Hon'ble Supreme Court in **Sri Chintaman Rao and Anr. v. State of Madhya Pradesh**, reported in **1958 SCC OnLine SC 83** and **General Manager, U.P. Cooperative Bank Ltd. v. Achhey Lal and Anr.**, reported in **2025 SCC OnLine SC 2096** had held only a 'worker' under direct control and supervision, excluding independent Contractors would be 'worker' under Act. It was held, independent *sattedars* (contractors) and their laborers would not be 'workers' under Act due to absence of direct supervision.

6. Fourthly, complainant had ignored petitioners reply to show-cause notice and mechanically filed complaint. It was



submitted, Section 88(2) of Act mandated enquiry. Without enquiry and finding, filing of complaint would be vitiated.

7. Fifthly, complaint admitted that incident was unforeseeable, which would render prosecution for negligence or failure to take due care without basis. Especially when worker wore a safety helmet at time of incident. It was lastly, contended that incident did not occur during manufacturing process. It was submitted this Court in **PP Upadhya v. State of Karnataka** [2019:KHC:26078] and in **S. Suresh and Anr. v. State of Karnataka**, reported in **2025 SCC OnLine Kar 25603**, had held prosecution under Section 92 of Act would not be justified even in case of fatal accident involving external contractor's employee during structural maintenance. It was submitted, Section 92 of Act could be invoked only in case of incident occurring during manufacturing process. On above grounds, prayed for quashing of proceedings.

8. On other hand, Smt.Sowmya R., learned HCGP for respondent - State opposed petition. It was submitted definition of '*worker*' under Section 2(I) of Act included any



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person employed directly or through an agency including a contractor. Likewise, definition of '*occupier*' under Section 2(n) of Act included any person having ultimate control over affairs of factory and definition of '*factory*', under Section 2(m)(i) of Act included any premises where more than 10 workers had worked on any day during preceding 12 months, would include premises even though same may have been under maintenance shut down at time of incident. On said grounds sought for dismissal of petition.

9. Heard learned counsels and perused material on record.

10. This petition is by accused no.1 and 2 challenging proceedings for prosecuting them for offences punishable under Section 92 of Act on a complaint filed by respondent-complainant.

11. At outset, it is seen that there is no dispute about occurrence of incident in premises of MRPL on 04.05.2019 leading to death of Wakil Kumer.



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12. First ground of challenge is that petitioners took charge at Factory on 27.08.2018 (petitioner no.1) and 11.07.2019 (petitioner no.2) respectively by relying on appointment letters. However, appointment letters cannot be stated to be unimpeachable documents of sterling quality as can be taken note of at this stage. Hence, said contention would be a defence that would be a matter for trial.

13. Second ground urged is invalidity of prosecution of petitioners for general and vague offence. Perusal of complaint reveals that violations alleged against petitioners contained in para-6 of Complaint is as follows:

"6. *PENALTY:*

In this case the accused have contravened the provisions of the Factories Act, 1948 and the Rules made there under, punishable under Section 92 of Factories Act, 1948. Therefore the complainant prays that the accused person be punished for the offences."

14. Only violations mentioned in complaint are of Rule 4 of Rules and Section 92 of Act. While, Rule 4 of Rules is about licensing etc. of premises of which there is no allegation of violation. Section 92 of Act provides for prosecution for violation of any provisions of Act or Rules. Thus, in absence of



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mentioning violation of any specific provision of Act or Rules, prosecution only under general provision of Section 92 of Act would be illegal. On said ground also impugned proceedings would be liable for quashing.

15. It is also contended that injured was not an employee of MRPL but was employee of Contractor. In **Chintaman Rao's** case Hon'ble Supreme Court was examining whether employees of sattedars would fall within definition of 'worker' under 2 (I) of Act. Observing that contractor would mean one who makes an agreement to carryout certain work was distinct from meaning of worker, who essentially subjects himself to control of employer, held contract worker would not fall within meaning definition of 'worker' under Section 2 (I) of Act. Similar view is expressed in **Achhey Lal's** case. In instant case, reference to injured in complaint is as employee of M/s. Akash Construction which was assigned grinding work by MRPL. Therefore, when injured would not fall within definition of workmen, invocation of offences under Act would not be justified.



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16. Further Section 88(2) of Act merely provides for holding of enquiry without any provision for passing order. Therefore, challenge on ground of not passing order, on reply submitted to show cause notice issued by complainant would be untenable.

17. Indeed, in complaint, complainant has stated that tilting of pipe and hitting Wakil Kumer who was carrying on grinding work at adjacent area is admitted to be unforeseeable. In absence of Act, Rules, Schedule or any Order prescribing requirement of PP Rope, prosecution would be abuse of process as held by this Court in Crl.P.no.5446/2009 disposed of on 27.09.2013, (**MV Ramdas's** case) has held prosecution illegal.

18. Referring to contents of complaint wherein it was stated work of normalizing clamp on cooling tower water pipelines was entrusted to M/s Akash Construction during shut down of Refinery Complex from 15.04.2019, it is contended that incident did not occur during manufacturing process. Consequently, invocation of offences under Act would be illegal. Though in **PP Upadhya** and **S Suresh** cases (supra), it is held



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occurrence of incident during non-manufacturing process would not attract offence under Act, it is seen that in complaint itself, complainant has stated that MRPL ordinarily employees 5000 workers and was into manufacturing process of processing crude oil with aid of power. In case of premises employing more than 10 workers, it would suffice if any manufacturing process were undertaken during 12 months preceding incident. Hence, such contention would be matter for trial and would not be available to seek quashing of proceedings.

19. For aforesaid reasons, petition would succeed, proceedings in CC no.3286/2019 on file of II JMFC, Mangaluru for offence punishable under Section 92 of Act, stand ***quashed***.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 54