

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

S.B. Criminal Writ Petition No. 42/2018

1. Reliance Infrastructure Limited (Erstwhile Known As B.S.E.S) Ltd. A Company Incorporated Under The Provisions of the Indian Companies Act, 1913 and having its registered office at H Block, 1st Floor, Ambani Knowledge City, Mumbai-400710.
2. Shri Omkar Raut S/o Late Shri Ajay Arjun Raut, aged 31 years, R/o 2/3, Surya Kiran CHS, Thane Maharashtra, Office Address Reliance Centre, Santacruz East, Mumbai-400055. (Power Of Attorney Holder On Behalf Of Petitioner No.1).
3. Anil Ambani S/o Shri Dheerubhai Ambani, aged about 58 years, Non Executive Chairman Of Reliance Infrastructure Limited, Registered Office at H Block, 1st Floor, Ambani Knowledge City, Mumbai-400710.

----Petitioners

Versus

1. State Of Rajasthan Through Principal Secretary, Labour Welfare, Secretariat, Jaipur.
2. Labour Commissioner, Department Of Labour Welfare, Government Of Rajasthan, Hasanpura, Jaipur.
3. Shambhu Singh S/o Shri Bhaiji Singh, R/o Kathputli Nagar Colony, Jyoti Nagar, Jaipur.
4. Transex Service Pvt. Ltd., 252 A Shahpur Jat, Panchsheel Shopping Centre, New Delhi.

----Respondents

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For Petitioner(s)	:	Mr. A.K. Pareek Ms. Rani Bhandari Mr. Deepak Kumar Meena
For Respondent(s)	:	Mr. Vivek Choudhary, PP Mr. Yogesh Shastri

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**HON'BLE MR. JUSTICE ANAND SHARMA****Order****06/10/2025**

1. The petitioners have filed the criminal writ petition challenging the order dated 09.06.2017 issued by the Additional Labour Commissioner, to grant prosecution sanction against the petitioners for disobeying the orders of the Labour Court. Petitioners have also assailed the order dated 11.09.2017 passed by the Court of Chief Metropolitan Magistrate, Jaipur Metropolitan, whereby on the basis of aforesaid sanction for prosecution, cognizance has been taken against the petitioners for committing offence under Section 29 read with Section 34 of the Industrial Disputes Act, 1947 (for short 'the Act of 1947').

2. It is stated that the petitioner No.1 is a company incorporated under the provisions of the Indian Companies Act, 1913, and was earlier known by the name of Bombay Suburban Electric Supply (B.S.E.S). It is stated that the respondent No.3-workman raised one industrial dispute before the conciliation officer raising grievance that he was employed by B.S.E.S Ltd. and when his services were illegally terminated on 12.06.1997. On account of there being no settlement before the Conciliation Officer, a failure report was submitted to the appropriate Government and ultimately, the dispute was referred to the Labour Court, Jaipur Ist, for adjudication which was registered as LCR No. 142/1999. Pursuant to such reference in respect of earlier termination dated 12.06.1997, the respondent-workman filed a statement of claim. However, during the proceeding before the Labour Court, one compromise was entered into where it was

agreed between the respondent-workman and M/s Transex Service Private Ltd. (respondent No.4 in the instant writ petition), who was referred to as the employer in the compromise that the respondent-workman shall be reinstated back by respondent No.4 in service by maintaining continuity in service and would be granted pay in the pay scale of Rs.2250/- along with 10% H.R.A. per month. It was also agreed by respondent-workman that he had relinquished his back wages and M/s Transex Service Private Ltd. shall issue a fresh appointment letter to engage the respondent-workman at Delhi office. It was also agreed in the compromise that the respondent-workman shall work in the office of respondent No.4-M/s Transex Service Private Ltd. and shall have no connection whatsoever with B.S.E.S. Ltd. (erstwhile company of petitioner No.1).

3. It is further case of respondent-workman that although he was reinstated back in service by the respondent No.4, yet by issuing one termination letter dated 25.02.2004, again his services were terminated by the respondent No.4. Under constraining circumstances feeling aggrieved by termination letter dated 25.02.2004, the respondent workman again raised industrial dispute before the Conciliation Officer, yet on account of failure report submitted by the Conciliation Officer due to unsuccessful conciliation, the appropriate Government again referred the dispute for adjudication to the Labour Court which was registered as LCR No. 49/2005. Terms of reference are reproduced as under:

*"क्या प्रार्थी श्रमिक श्री शम्भूसिंह पुत्र श्री भाई जी सिंह निवासी कोटपूतली नगर, कॉलोनी ज्योति नगर जयपुर को उसके नियोजक सं. 1 मै0 बी.एस.ई.एस. लि0 द्वारा प्रबंध संचालक नागौर महल छा माला 82 वीर नरीमन रोड मुम्बई 400029, 2-ट्रांसेक्स सर्विस प्रा0 लि0 252-ए शाहपुर जाट पंचशील शोपिंग सेन्टर नई*

दिल्ली एवं 3- शाखा प्रबंधक मै0 बी.एस.ई.एस.लि0 अंकुल अपार्टमेन्ट एस-6  
ज्योतिनगर एक्सटेन्शन जयपुर द्वारा दिनांक 25.02.2004 से सेवा से पृथक करना  
उचित एवं वेध है? यदि नहीं तो श्रमिक किस राहत को पाने का अधिकारी है? "

4. Thereafter respondent-workman filed his statement of claim in LCR No. 49/2005 praying for reinstatement by declaring the termination order dated 25.02.2004 as illegal.

5. Erstwhile B.S.E.S. Ltd. through Managing Director was impleaded as non-applicant No. 1 in the statement of claim, whereas its Branch Manager at Jaipur was impleaded as non-applicant No.3. Transex Service Pvt. Ltd. (respondent No.4 in the instant writ petition) was impleaded as non-applicant No.2.

6. The reference of compromise earlier executed between the respondent-workman and respondent No.4 was also given in the statement of claim.

7. Thereafter, reply to the statement of claim in LCR No. 49/2005 was also given by the petitioners, in which it was submitted that earlier LCR No. 142/1999 was decided by the Labour Court No.1, Jaipur, City Jaipur vide award dated 30<sup>th</sup> October, 2003, on the basis of compromise entered into between the respondent-workman and respondent No.4 and it was specified that the petitioner No.1 was not a party to the compromise. Pursuant to such compromise, respondent-workman was never reinstated back by petitioner No.1 or by erstwhile B.S.E.S Ltd. and therefore, the respondent-workman was never an employee of the petitioner and there was no relationship of employer and employee between the petitioner No. 1 and respondent-workman.

8. Thereafter, parties to the litigation filed affidavits in evidence in support of their respective cases. Respondent-

workman was cross-examined by the petitioners who stated in his cross-examination as under:

"-----पूर्व में इस न्यायालय में लखित प्रकरण सं. एलसीआर 142/99 के मध्य बीएसईएस लि० के जरिये मै० ट्रांसेक्स सर्विसेज प्रा० नई दिल्ली के साथ दिनांक 30.10.2003 को राजीनामा हुआ था जो एक्जि डी. 1 है। इस पर हस्ताक्षर मेरे ही हैं। यह सही है कि इस राजीनामे के आधार पर मै० ट्रांसेक्स सर्विसेज प्रा० लि० ने जयपुर में दिल्ली नौकरी करने हेतु 14.10.2003 को नियुक्ति पत्र दिया था जो एक्जि डी. 2 है एवं ए सी बी जिस पर मेरे हस्ताक्षर हैं। उक्त नियुक्ति पत्र के आधार पर मेरे द्वारा ज्वार्निंग रिपोर्ट देकर नौकरी ज्वाइन की थी। मेरे को कभी वेतन का भुगतान नहीं किया गया। मुझे पत्र दिनांक 25.2.2004 मै० ट्रांसेक्स सर्विसेज का मै. बीएसईएस ने ज्योतिनगर अंकुरा अपार्टमेंट नं. 6 में दिया गया था। देने की तारीख ध्यान नहीं है। 2004 के बाद मैंने मै० बीएसईएस के कार्यालय में नौकरी नहीं की। यह सही है कि बीएसईएस द्वारा मुझे कोई नियुक्ति पत्र प्रदान नहीं किया गया। यह भी सही है कि बीएसईएस द्वारा नौकरी से निकालने का कोई पत्र नहीं दिया गया। मेरे द्वारा वेतन स्लिप आदि कोई पेश नहीं किये गये हैं। मुझे कोई जानकारी नहीं है कि बीएसईएस का कार्यालय वर्ष 2005 में बंद हो गया। वर्तमान में भी मुझे नहीं मालूम इसका कहां कार्यालय है। मैंने वर्ष 2003 के बाद बीएसईएस कार्यालय में कोई चिट्ठी नहीं भेजी। यह सही है कि अप्रार्थी सं. 3 के खिलाफ एफआईआर दर्ज कराई थी। अजखुंद कहा कि मेरे को रतन कुमार एवं सुनील जोशी द्वारा जान से मरने की धमकी दी थी जिसकी एफआईआर दर्ज कराई। उनको कोई सजा नहीं हुई। मैं वर्तमान में दो साल से रिक्शा चला रहा हूँ।"

9. The Labour Court-Ist, Jaipur, decided the reference case bearing LCR No. 49/2005 vide award dated 09.09.2015. In para 11 of the award, the terms of compromise between respondent-workman and respondent No.4 were reproduced and in para 12 of the award, a categorical finding was given that there was no relationship of an employer and employee between the respondent-workman or petitioner No.1 and finally following award was passed by the Labour Court-Ist, Jaipur.

"21- अतः उपरोक्त विवेचना के आधार पर राज्य सरकार से प्राप्त विवाद के रेफरेंस में निम्न अवार्ड पारित किया जाता है -  
 प्रार्थी श्रमिक श्री शम्भूसिंह पुत्र श्री भाई जी सिंह निवासी कटपूतली नगर कालोनी, ज्योति नगर, जयपुर अप्रार्थी सं. 1 मै० बी.एस.ई. एस. लि० द्वारा प्रबंध संचालक नागौर महल छाटा माला 82 वीर नरीमन रोड मुम्बई -400029 एवं अप्रार्थी सं. 3-शाखा प्रबंधक मै० बी. एस. ई. एस. लि० अंकुर अपार्टमेंट, एस-6 ज्योतिनगर एक्सटेन्शन, जयपुर का श्रमिक नहीं हैं। प्रार्थी अप्रार्थी सं. 2-ट्रांसेक्स सर्विस प्रा० लि० 252-ए शाहपुर जाट पंचशील शोपिंग सेन्टर नई दिल्ली का श्रमिक है और प्रार्थी श्रमिक श्री शम्भूसिंह को अप्रार्थी सं. 2 द्वारा दिनांक 25.02.2004 से सेवा से पृथक करना अनुचित एवं अवैध है। प्रार्थी दिनांक 25.02.04 से समस्त बैंक वेजेज के साथ सेवा की निरन्तरता कायम रखते हुए अप्रार्थी सं. 2 के संस्थान में सेवा में बहाल होने का अधिकारी है और प्रार्थी, अप्रार्थी सं. 1 व 3 के विरुद्ध उपरोक्त अनुतोष प्राप्त करने का अधिकारी नहीं है।"

10. Learned counsel for the petitioner submits that bare reading of the award would make it clear that the award was

passed against respondent No.4, who was directed to reinstate the respondent-workman along with consequential benefits and in fact, the termination order dated 25.02.2004 issued by the respondent No.4 was quashed. It was also highlighted by learned counsel for the petitioner that in the award, the relief claimed by the respondent-workman against the petitioner No.1 was specifically rejected. Under these circumstances, the petitioner No.1 or any of its Directors or Executive Chairman/Non-Executive Chairmen of the Company were not supposed to make compliance of the award.

11. The aforesaid award was published by the appropriate Government vide notification dated 01.03.2016 and after publication of the award, since the same was not complied with by respondent No.4, the respondent-workman submitted an application under Section 29 read with Section 34 of the Industrial Disputes Act, 1947 for prosecuting the petitioners whereas, there was no direction against the petitioners in the award. It was further submitted that the respondent-workman also moved an application for granting prosecution sanctioned against the petitioners and without there being any proper application of mind and by enlarging the scope of award, prosecution sanction was granted vide letter dated 09.06.2017 and thereafter, the trial Court has taken cognizance against the petitioners vide order dated 11.09.2017 for committing offence under Section 29 read with Section 34 of the Act of 1947.

12. Learned counsel for the petitioners submits that the prosecution sanctioning authority as well as the Court below have transgressed their scope and jurisdiction by ignoring the specific

directions given by the Labour Court-Ist, Jaipur in award dated 09.09.2015 passed in LCR No.49/2005. He further submits that when the relief against the petitioner No.1 and its Branch Manager was specifically rejected in the operative portion of the award by the Labour Court then, there was no occasion for granting prosecution sanction against the petitioners or for taking cognizance against them.

13. Learned counsel for the petitioners further submits that on account of impugned order, the petitioners have been subjected to vexatious and frivolous trial, whereas a bare reading of the award would make it clear that they were not supposed to make any compliance, and the award has never been defied or flouted by them. The impugned orders are causing serious prejudice and miscarriage of justice therefore, the same are liable to be quashed and set-aside.

14. Learned counsel for the respondent-workman as well as Government counsel opposed the writ petition and submitted that the petitioners have ought to challenge the order by way of filing the revision petition and not by way of a criminal writ petition. It was also submitted that the scope of interference at the stage of cognizance is extremely limited, however, the petitioner is seeking a prayer to extend the scope and to make an interference at the stage where simple cognizance has been taken and the petitioners would be having sufficient opportunity during trial to extend their defence.

15. It was also submitted by learned counsel appearing for the respondents that para No.20 of award dated 09.09.2015 makes it clear that in case the respondent No.4(non-applicant in

LCR) is found to be fictitious or sham company then the respondent-workman would be entitled to claim monetary benefits by initiating appropriate proceedings. Thus, para 20 of the award is an integral part of operative portion of the award and in the instant case where the respondent No.4 is a fictitious company, the respondent-workman had no other alternative except to seek prosecution of the petitioners.

16. It is also submitted by learned counsel for the respondents that earlier the Additional Labour Commissioner sent one letter to the Judge, Labour Court Ist, Jaipur, mentioning therein that the notices sent by the Labour Commissioner to respondent No.4 were returned with the remark that 'no such firm exists', which gives rise to the presumption that respondent No.4 never existed and therefore, guidelines were sought by the Labour Commissioner for the purpose of effective compliance of the award.

17. Learned counsel for the respondents highlighted that pursuant to such letter, reply was given by the Judge, Labour Court, that para 20 of the award dated 09.09.2015 is quite clear and the same be read and referred. Learned counsel for the respondents would submit that thus, the letter dated 18.04.2017 issued by the Judge, Labour Court Ist, Jaipur, to the Additional Labour Commissioner would amount to modification of award and when the operative portion of the award is read with para 20 of the award then it would come out that in case of non-existence of respondent No.4, the respondent-workman was entitled to seek compliance of the award from the petitioner-company. It was submitted that since, the petitioner Nos. 2 & 3 are Director/Non-

Executive Chairman of petitioner No.1, therefore, they were also liable to make compliance and since compliance was not made quite rightly prosecution sanction was accorded by the Competent Authority and accordingly, the learned Court below has also committed no mistake in taking cognizance against the petitioners vide order dated 11.09.2017. In view of above, they prayed for rejecting the criminal writ petition filed by the petitioners.

18. Heard learned counsel for the parties and perused the record.

19. This Court is mindful of the fact that the jurisdiction of this Court in a criminal writ petition is limited and can be exercised only in the cases where the petitioner succeeds in establishing that there is apparent and manifest miscarriage of justice or the Court below/authorities have acted beyond their jurisdiction/powers.

20. Provisions of Sections 29, 32 and 34 are quite clear that and are being reproduced as under:

**"29. Penalty for breach of settlement or award.—** Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both 2 [and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first] and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.

**32. Offence by companies, etc.—**Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his

*knowledge or consent, be deemed to be guilty of such offence.*

**34. Cognizance of offences.—**(1) *No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.*

(2). *No Court inferior to that of [a Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence punishable under this Act."*

21. Section 29 starts with the words any person who commits a breach of any term of settlement or award, which is binding on him under the Act, shall be punishable. Thus, it is apparently clear that for the purpose of granting prosecution sanction for taking cognizance firstly, the applicant must establish that a person against whom he was seeking prosecution was bound to make compliance of the award and the award was legally binding upon him. In the instant case, it is apparent from the award itself that the same is based upon one compromise dated 30.10.2003 executed between the respondent-workman and respondent No.4. In the said compromise also the parties to the compromise consciously agreed that the respondent-workman would work in the office of respondent No.4 and the erstwhile company of petitioner No.1 shall have no connection with the employment of respondent-workman. Terms of compromise dated 30.10.2003 are being reproduced as under:

*"(अ) यह कि नियोजक मैसर्स ट्रांसेक्स सर्विसेज प्रा० लि०, 252-ए, शाहपुर जाट नई दिल्ली स्थित कार्यालय में प्रार्थी श्रमिक को चपरासी के पद पर काम पर ले लेगा तथा प्रार्थी श्रमिक की सेवा निरन्तर मानी जावेगी तथा उसको वर्तमान वेतन श्रृंखला 2250 रुपये एवं 10 प्रतिशत एच. आर. ए. देय होगा।*

*(ब) यह कि प्रार्थी श्रमिक सेवा मुक्ति से उपरोक्त राजीनामा अनुसार उसे नौकरी पर लेने के दिवस तक अपनी बैंक वेजेज का परित्याग कर दिया है और अपनी बैंक वेजेज प्राप्त करने का अधिकारी नहीं होगा तथा श्रमिक भविष्य में कभी क्लेम नहीं करेगा।*

*(स) यह कि उपरोक्त नियोजक प्रार्थी को नियुक्ति पत्र देगा जिसके आधार पर श्रमिक अपनी ड्यूटी नियोजक के देहली स्थित कार्यालय में ज्वाइन करेगा और नियोजक जयपुर से देहली तक यात्रा भत्ता 250 रु. अदा करेगा।*

*(द) यह कि श्रमिक ईमानदारी से नियोजक के यहां कार्य करेगा एवं बी.एस.ई.एस. लि० से कोई सम्बंध नहीं रखेगा तथा प्रार्थी के प्रति उपरोक्त नियोजक भी बदले की भावना से कोई कार्यवाही नहीं करेगा। "*

22. Such compromise has been discussed and analysed by the Labour Court in award dated 09.09.2015 and a specific finding was given that there was no relationship of employer and workman between the petitioner-company and the respondent-workman. Para 12 of the Award dated 09.09.2015 is also relevant and is being reproduced as under:

*"12. उपरोक्त राजीनामे की शर्तों को देखें तो प्रार्थी को चपरासी के पद पर काम दिया जायेगा और प्रार्थी की सेवा की निरन्तरता मानी जायेगी परन्तु प्रार्थी को बैंक वेजेज नहीं मिलेगा। यह भी राजीनामे से स्पष्ट है कि प्रार्थी एवं अप्रार्थी सं. 1 व 3 के मध्य कोई संबंध नहीं है। इस राजीनामे से यह प्रदर्शित होता है कि प्रार्थी और अप्रार्थी सं. 1 व 3 के मध्य नियोक्ता व श्रमिक का कोई संबंध नहीं था। प्रार्थी ने अपना नियुक्ति पत्र दिनांक 14.10.03 प्रदर्श डी. 2 होना स्वीकार किया है। इससे भी स्पष्ट है कि प्रार्थी को नियुक्ति मै0 ट्रांसेक्स सर्विसेज प्रा0 लि0 नई दिल्ली द्वारा प्रदान की गई। इसके विपरीत प्रार्थी ने अप्रार्थी सं. 1 के साक्षी श्री सुनील जोशी द्वारा पूर्व की एल.सी.आर. 142/99 में प्रस्तुत शपथ पत्र की प्रति प्रदर्श 3 के रूप में प्रदर्शित कराई। हमने इस शपथ पत्र का अवलोकन किया तो यह पाया कि इसमें भी अप्रार्थी सं. 1 ने दिनांक 21.10.02 को दर्ज किया था कि प्रार्थी को नियुक्ति व भुगतान मै0 ट्रांसेक्स सर्विसेज प्रा0 लि0 नई दिल्ली द्वारा ही की जाती थी। इससे यह स्पष्ट है कि प्रार्थी एवं अप्रार्थी सं. 1/3 के मध्य नियोजक व श्रमिक के संबंध प्रमाणित नहीं होते। प्रार्थी ने अप्रार्थी सं. 1 के द्वारा जारी नियुक्ति पत्र या भुगतान के विरुद्ध या उनसे संबंधित कोई दस्तावेज जो प्रार्थी को अप्रार्थी सं. 1 व 3 का श्रमिक होना प्रमाणित करे, प्रदर्शित नहीं कराया। ऐसी स्थिति में अप्रार्थी के प्रतिनिधि द्वारा उपरोक्त वर्णित सिद्धान्तों में मननीय उच्चतम न्यायालय द्वारा अभिनिर्धारित सिद्धान्तों को दृष्टिगत रखते हुए केवलमात्र मौखिक साक्ष्य से अप्रार्थी सं. 1 अथवा अप्रार्थी सं. 3 के यहां प्रार्थी को नियोजित नहीं माना जा सकता, अतः प्रमाणित है कि प्रार्थी एवं अप्रार्थी सं. 1/3 के मध्य उक्त परिस्थिति में नियोजक व श्रमिक के संबंध नहीं है।"*

After giving such finding, in operative portion of the award also the relief claimed by respondent-workman against the petitioner-company was specifically rejected.

23. In view of above, merely on account of the fact that during discussion in para 20, it was mentioned in the award dated 09.09.2015 that in case, the respondent No.4 is found to be a fictitious or sham company, the respondent-workman shall be entitled to claim monetary benefits from petitioner-company, this would not make such findings as part of enforceable directions of the award, which can be executed against the petitioner-company.

24. The petitioners have also placed one certificate dated 06.07.1987 (Annexure-4) issued by the Registrar of Companies, Delhi and Haryana, showing that respondent No.4-M/s Transex

Service Private Ltd. is a company incorporated under the provisions of the Companies Act, 1956 and its registration No. 28531/1987-1988.

25. Learned counsel for the respondents have utterly failed to dispute the aforesaid document issued by the Registrar of Companies, hence, it cannot be presumed that the respondent No.4 was the fictitious or shame company. Therefore, even otherwise, para 20 of the award cannot be pressed into service.

26. Assuming for a moment that the notices earlier sent by the Labour Commissioner to the office of respondent No.4 were returned back would not give rise to a presumption that respondent No.4 was a shame or fictitious company and therefore under these circumstances, merely on the basis of surmises and conjectures, the Additional Labour Commissioner has given sanction for prosecution by enlarging the scope of the award, which is not at all permissible.

27. So far as the cognizance order dated 11.09.2017 is concerned, the Court below has utterly failed to appreciate that in executable portion of the award, relief against the petitioner-company was specifically rejected by the Labour Court hence, in an application under Section 29 read with Section 34 of the Act of 1947, where cognizance can be taken only in respect of persons/companies, who were supposed to comply with the award, merely on account of the fact that prosecution sanction has been granted by Additional Labour Commissioner, cognizance could not have been taken in mechanical manner by the learned Court below. It is a settled proposition of law that even while taking cognizance, the competent criminal Court is required to

examine the relevant material to satisfy itself that prima facie offence is made out. Here in the instant case, the respondent-workman himself has admitted that pursuant to compromise, he was re-engaged by respondent No.4 and his services were terminated by respondent No.4, hence there was no occasion whatsoever for taking cognizance against the petitioner-company. Petitioner Nos.2 and 3 are Director and Non-Executive Chairman of the petitioner-company, hence in view of the specific terms of award, they were also not required to make compliance of the same.

28. Under these circumstances, it is apparent that the very foundation on which cognizance has been taken is legally unsustainable. The material placed on record does not disclose the commission of any offence by the petitioners. Hence, continuation of criminal proceedings in such circumstances would amount to gross abuse of process of law.

29. In the present case, the cognizance has been taken mechanically, without proper application of mind and the petitioners have been unnecessarily dragged into a vexatious criminal litigation for an offence that is not made out either in law or on fact. Such proceedings, if allowed to continue, would result in miscarriage of justice and cause undue harassment to the petitioners.

30. Accordingly, this Court finds it to be a fit case for exercising inherent powers as well as extraordinary jurisdiction under Article 226 of the Constitution of India to prevent abuse of process of law and to secure the ends of justice. Consequently, the impugned order dated 09.06.2017 issued by the Additional Labour

Commissioner and subsequent cognizance order dated 11.09.2017 passed by the learned Court below are hereby quashed and set aside.

31. Accordingly, this criminal writ petition stands allowed as per aforesaid directions.

**(ANAND SHARMA),J**

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