

Rattan Singh
and another
v.
Union of Ind'ia
and others,

Gurdev Singh, J.

may be further transfers by the persons acquiring ownership rights, and it would be unjust to pass orders behind their back and to their prejudice especially when the original purchasers or the allottees may not feel interested in defending the allotments or sales.

A clue to the interpretation of sub-section (3) of section 24 is provided by sub-section (4) of that section, which provides that any person aggrieved by an order under sub-section (2) can apply for revision of the order to the Central Government. If it is held that the petitioners were not entitled to a notice of the proceedings taken by the Chief Settlement Commissioner for cancellation of the sale, it would mean that they would have no right to question his order by way of a revision under sub-section (4) of section 24 of the Act despite the fact that such an order operated entirely to their prejudice. This would be clearly contrary to the intention of the legislature as expressed in sub-section (4) of section 24 of the Act.

I, accordingly, find that the petitioners were entitled to notice of the proceedings before the Chief Settlement Commissioner, and since they had not been afforded an opportunity of being heard, the order of the Chief Settlement Commissioner, dated 13th February, 1962, is quashed. The petition is accepted with costs against both the respondents.

B.R.T.

REVISIONAL CRIMINAL

Before P. D. Sharma, J.

S. K. JAGNANI,—Petitioner

versus

THE STATE,—Respondent

THE STATE OF PUNJAB AND ANOTHER,—Appellants

Criminal Revision No. 105-D of 1963

1963

Sept., 27th.

Factories Act (LXIII of 1948)—Ss. 63 and 92—Ten workers found working during rest interval in contravention of S. 63—Occupier and Manager of factory—whether

commit one default or as many defaults as the number of workers.

Held, that the language of section 63 of the Factories Act, 1948, is clear enough to indicate that the occupier and Manager of the factory commit default in the case of each adult worker when they require or allow him to work in any factory otherwise than in accordance with the notice of period of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory. The gravamen of the charge is that an adult worker has been required or allowed to work beyond the prescribed hours and without making the necessary entries in the register of adult workers of the factory. It is not that the change in his working hours has not been incorporated in the notice of periods of work displayed in the factory and corresponding entries not made in the register of adult workers of the factory. A contravention in respect of each worker in factory has been made punishable under section 92 of the Act and the Chief Inspector of Factories is entitled to file as many complaints as are the defaults committed.

... Petition for revision under sections 435/439 of the Cr. P.C. of the order of Shri Udham Singh, Additional Sessions Judge, Delhi, confirming the order dated 20th February, 1963, of Shri M. M. Aggarwal, Magistrate, 1st Class, Delhi; refusing to treat four complaints as one offence against the petitioner regarding an alleged single occurrence.

C. L. PREM; ADVOCATE, for the Petitioner.

D. R. SETHI; ADVOCATE; for the Respondent:

ORDER.

SHARMA, J.—S. K. Jagnani accused-petitioner is the Manager of Messrs Birla Cotton Spinning and Weaving Mills Limited, Subzi Mandi, Delhi, which is a factory within the meaning of the Factories Act, 1948 (hereinafter referred to as the Act). The Inspector of Factories, Delhi, on 23rd December, 1961, inspected the said factory and found that ten workers of Automatic Loom Shed were working at 5.45 p.m. on that day during the rest interval otherwise than in accordance with the notice of periods of work displayed with working hours from 1.30 p.m. to 9.30 p.m. and

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rest interval from 5.30 p.m. to 6.00 p.m. which contravened the provisions of section 63 of the Act. The Chief Inspector of Factories on the basis of the inspection report put in four separate complaints under section 63 read with section 92 of the Act against S. K. Jagnani, three in respect of three workers each and the fourth in respect of the tenth worker in the Court of Mr. M. M. Aggarwal, Magistrate First Class, Delhi.

The accused-petitioner raised a preliminary objection that only one complaint could have been lodged against him in regard to the alleged contravention of the provisions of section 63 of the Act because all the ten workers were found working during the rest interval in the Automatic Loom Shed. The trial Magistrate overruled the preliminary objection and declined to consolidate the four complaints. The accused-petitioner filed a revision petition against this order which was dismissed by the learned Additional Sessions Judge, Delhi. He has come up in revision to this Court.

Sections 63 and 92 of the Act run as:—

“63. No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entires made beforehand against his name in the register of adult workers of the factory.

92. Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any provisions of this Act or of any rule made thereunder or of any order in writing given

thereunder, the occupier and manager of the factory shall be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine, which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine, which may extend to seventy-five rupees for each day on which the contravention is so continued."

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The language of section 63 is clear enough to indicate that the occupier and Manager of the factory commit default in the case of each adult worker when they require or allow him to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory. The gravamen of the charge is that an adult worker has been required or allowed to work beyond the prescribed hours and without making the necessary entries in the register of adult workers of the factory. It is not that the change in his working hours has not been incorporated in the notice of periods of work displayed in the factory and corresponding entries not made in the register of adult workers of the factory. The learned counsel for the accused-petitioner contended that since all the ten workers worked during the rest interval by one order of the Manager of the factory, therefore, the Manager committed one default and not as many as the workers. I am not impressed with this ingenious argument which does not fit in the phraseology of section 63 of the Act. He, however, relied on the four cases, (1) *The State vs. Jamnadas Vasanji* (1), *In re. P. Lakshmaiah Naidu* (2), *Bhagat Singh vs. The State and another* (3), *In*

(1) A.I.R. 1962 Gujarat 234.

(2) A.I.R. 1959 Andh. Pra. 536.

(3) A.I.R. 1952 S.C. 45.

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re. Vonka Venakaratnam (4). The first three cases as discussed by the learned Additional Sessions Judge in his order have no bearing on the facts of the present case and thus do not help the petitioner. In the fourth case, four persons were employed in a factory on a Sunday without giving notice to the Inspector and without fixing a notice in the place mentioned in section 36 of the Act. Burn, J., observed "But as I hold that the employment of the four persons mentioned in C. C. Nos. 143 to 146 of 1933, constituted one offence only and no four offences, I shall confirm the conviction and sentence in C. C. No. 143 of 1933 alone and set aside the convictions and sentences in C. C. 144, 145 and 146 of 1933." The learned Judge did not give any reasons for coming to the above conclusion. The learned counsel for the State referred to the cases, *Vrijvallubedas Jekisondas v. Emperor* (5), *N. K. Chitnis v. State through Factory Inspector, Indore* (6), *State v. H. B. Namjoshi* (7), *State v. Manager Sutaria Automobiles* (8), and *Kamlapat v. Emperor* (9). In the first two cases it has been specifically held that a contravention in respect of each worker in a factory has been made punishable under section 92 of the Act. In the following three cases conviction of the Manager of the factory in respect of each worker was upheld and thereby the interpretation of section 63 read with section 92 of the Act as put by the learned counsel for the State respondent approved. I respectfully follow the rule of law as laid down in *Vrijvallubedas Jekisondas* (5) (6) and *N. K. Chitnis'* cases, and hold that the Chief Inspector of Factories was justified in lodging four complaints against the

(4) A.I.R. 1935 Mad. 301.

(5) A.I.R. 1921 Bom. 322.

(6) A.I.R. 1953 M.B. 230.

(7) A.I.R. 1956 Bom. 189.

(8) A.I.R. 1956 Bom. 433.

(9) A.I.R. 1930 All. 214.

accused-petitioner in the Court of the learned trial S. K. Jagnani,
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The revision petition has no force and is dis-
missed.

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