

**Before the Hon'ble Additional Chief Judicial Magistrate and Judge (S.D.)
of Labour Court at Ahemdabad,**

C. C. No.5779/2018.

Complainant:: On behalf of the State,
Factory Inspector, Ahemdabad.

V/S

Accused:: Ajaybhai Roshanlal Gupta,
Atul Engineering and Moulders,
Shade no.173, Prabhat Industrial Estate, Opp. of Sonariya
Block, Bapunagar, Ahemdabad.

Subject : Offense u/sec. 92 of the Factory Act.

: Judgment :

(1). At the outset, it is required to note that *vide* Notification No.A.3608/2015 of the hon'ble High Court of Gujarat, powers of Judicial Magistrate First Class were conferred as per sec.11(3) of the Code of Criminal Procedure, 1973, on Civil Judges who are posted in Labour Judiciary on deputation, for conducting criminal cases arising out of breach of Labour Laws. On basis of the said notification, the criminal cases arising out of breach of Labour Laws which were pending before Metropolitan Magistrate Courts at Ahemdabad and Judicial Magistrate Court of Gandhinagar, were transferred to Labour Courts at Ahemdabad and the fresh litigations pertaining to said violation than onwards were also instituted before the Labour Courts having concerned jurisdiction. On basis of the said arrangement, the present criminal case was transferred from Metropolitan Magistrate Court of Ahemdabad.

(2). Looking to the facts of complaint, the accused herein is said to have violated **Rule no.4** of the **Gujarat Factory Rules, 1963** and thereby has committed offense punishable **u/sec.92 of the Factories Act**. The accused on being served with the summons of this case has remained present before this Court in today's special sitting, so as per sec.251 of the Cr.P.C. he was provided the copy of complaint and was informed regarding the facts of accusation, wherein he has voluntarily pleaded guilty and has submitted separate pursis u/sec.252 of the Cr. P. C. stating that he voluntarily pleads guilty the offense. So the accused was informed that he is not liable for pleading guilty the present offense and if he pleads guilty it may be used against him as an evidence even though he has pleaded guilty the offense stated in the instant case. He has

stated that this is his first offense and will not repeat such offense in future. He has prayed to provide an opportunity and let him off without punishing him or to award him much lesser punishment than what is provided in the law.

(3). Now looking to the offense against the accused he is charged with the violations of **Rule no.4** of the **Gujarat Factory Rules, 1963** and thereby has committed offense punishable **u/sec.92 of the Factories Act**. So looking to the minimum punishment prescribed for the said offense and since this being the first offense against the accused which is voluntarily pleaded by him and hence now when he is being convicted, so for that purpose looking to the age of accused, the facts related to this case, the penal provisions as well as looking to the ratio of the citation which is the case before ***hon'ble Gujarat High Court*** between ***State of Gujarat v/s Natwar Harchand Thakore, 2005(1) GLR 709***, if the accused herein is awarded punishment of paying reasonable and lesser amount of fine for the purpose of providing him an opportunity to improve than it will be a proper and just order looking to the circumstance of this case. Hence following order is passed in the larger interest of justice.

:: ORDER ::

(1). The accused herein is convicted for the offense punishable under **sec.92 of the Factories Act, 1948** with respect to the violation of **Rule no.4** of the **Gujarat Factory Rules, 1963** as is provided in sec.252 of the Criminal Procedure Code, 1973 and he is awarded punishment of paying fine of **Rs.2,000/- (in words rupees two thousand only)**.

(2). If the accused fails to pay the amount of fine then for default of the same he will have to undergo simple imprisonment of one month.

(3). The fine if paid / deposited by the accused has to be deposited with the Government.

This judgment is pronounced, read and signed in the special sitting of this Court on this day i.e. 11th December 2021.

Dt.11-12-2021.
Ahemdabad.

(Parvezahemad Alimohmad Malaviya)
Add. Chief Judicial Magistrate &
Judge (S.D.), Labour Court, Ahemdabad.
Judge Code : GJ00837.
