

BEFORE SHRI. A.G.MAGARE, JUDGE, 2nd LABOUR COURT, PUNE.

MISC. CRIMINAL COMPLAINT(ULP)NO.03/2024
(CNRNO.MHLC120002872024)

Smt. Suman Bansilal Pagariya. Complainant.

V e r s u s

**Dr. Bhausahab Sardesai Talegaon
Rural Hospital & Ors. ... Accused.**

ORDER BELOW EXH.U-7
(PASSED ON : 03/07/2025)

1. The present application is filed by the complainant for amendment in the present matter in the nature of mentioning the order of dated 08.07.2009 in Complaint (ULP)No.87/2008 instead of order of dated 30.10.2010 in Complaint(ULP)No.87/2009, which is inadvertently typed. Under such circumstances, by proposed amendment, the nature of the Misc. Criminal Complaint will not be changed. Apart, if the present application is allowed, no prejudice or harm will be caused to the accused. Therefore, prayed that, in the interest of justice, present application be allowed and accordingly complainant may be permitted to carry out the said amendment.
2. Upon which, the say was called by this Court. Wherein, the Ld. Advocate for accused submitted say at Exh.C-8. By which, it is submitted that, the present application is not maintainable because there is no provision in criminal proceeding to amend the complaint. Apart, initially, the complainant had preferred criminal complaint against late Dr. S.G. Ghaisas and the said

complaint came to be dismissed on 29.08.2022. Subsequently, the complainant filed another Criminal Complaint bearing No.10/2009 against Dr. Bhausahab Sardesai and the said complaint was also rejected by this Court in the year 2022. Besides, as per the provisions of criminal law, there cannot be replacement or change in the name of accused. Moreover, the complainant herein failed to show under which provisions the amendment can be made in the Misc. Criminal Complaint filed by her and by way of present application. Under such circumstances, the application be rejected.

3. Heard. Wherein, the Ld. Advocate for the complainant to buttress her oral argument has taken shelter of unreported judgment and order of our **Hon'ble Bombay High Court** in the matter of **Venco Research & Breeding Farm Ltd. V/s. Rashtriya Shramik Aghadi & Anr. Writ Petition No.10725/2012 dated 15.04.2013.**
4. Perused application and say. Having regards to the submissions made by Ld. Advocates for both the parties, it is a matter of record that, the present criminal proceeding is filed by the complainant for non compliance of order dated 30.10.2010 in Complaint(ULP)No.27/2002 passed by the Hon'ble Industrial Court, Pune on the part of the accused. However, by perusal of record and proceeding of the MCC(ULP) filed by the complainant herein, it is seen that, neither such order of dated 30.10.2010 is available nor Complaint(ULP)No.27/2022 is on record.

5. Besides, it is further matter of record that, the proceeding which is filed by the complainant in this Court is criminal and it is filed under Sec.48(1) of MRTU & PULP Act, 1971, for non compliance of order passed by Hon'ble Industrial Court, Pune of dated 30.10.2010 in Complaint(ULP)No.27/2002, which is not in existence. Hence, prima facie, at this stage there is no any order on record of the matter, which is to be implemented by the accused herein and thus also no contempt which is to be purged by them herein. Similarly, by this application, the complainant sought to correct only the date of order and complaint, which is also wrongly typed.

6. Because, it is clear by the prayer made in the MCC(ULP) filed by the complainant that, she sought directions from this Court against the accused to purged the contempt by implementing the order passed by the Hon'ble Industrial Court, Pune dated 30.10.2010 in Complaint(ULP)No.27/2002. Whereas, by this application, the complainant seek typographical correction in number of Complaint(ULP) and date of order in the nature of instead order of dated 30.10.2010 in Complaint(ULP)No.87/2009, it should be order of dated 08.07.2009 in Complaint(ULP)No.87/2008. However, it is seen by the order dated 08.07.2009 passed by Hon'ble Industrial Court, Pune in Complaint(ULP)No.87/2008 that, therein, the complainant herein made accused as Dr. S.G. Ghaisas, Dean of Hospital. Whereas, in this MCC(ULP), she made accused as Dr. Virendra Ghaisas, Executive Director of the Hospital. Thus, it is clear that, there is vast change in the nature of name of accused as well as in number of Complaint(ULP) and date of order, which the complainant

wanted to correct and it is not permissible under old or new criminal law or under the provisions of Sec.48(1) of MRTU & PULP Act, 1971.

7. Moreover, the observations of our **Hon'ble High Court** in the matter of **Venco Research & Breeding Farm Ltd.** (supra) relied on by the Ld. Advocate for complainant is not applicable to the present matter because the facts of the cited case law and the present case are totally different because in the cited case law, amendment was sought in the matter of Reference which was filed under the provisions of Industrial Disputes Act, 1947 and it is a Civil Law/Service Labour Law. However, the present criminal complaint is filed under the provisions of Sec.48(1) of the MRTU & PULP Act,1971, which is contempt proceeding and if this so the, the applicant/complainant required to give proper and appropriate information and contents in the matter, but the complainant herein, failed to do so, as observed in the foregoing paragraphs. So also, there is no specific provision for amendment in the criminal complaint under old Criminal Procedure Code, 1973 or in the new Bhartiya Nagarik Suraksha Sanhita (BNSS),2023. In view thereof, in my opinion, the present application requires to be rejected. As such, I proceed to pass following order,

ORDER

1. Application at Exh.U-7 is rejected.

Place :- Pune.
Date :- 03/07/2025

(Shri.A. G. Magare)
Judge,
Second Labour Court, Pune