

Hindustan Kamgar Sangh V/s. Mr. Krishnakumar Gopalan and Ors.

ORDER BELOW EXH.-01

Read complaint, perused the documents placed on record. Heard Ld. Advocate Shri P. M. Havnur for complainant. The complainant through it's Vice President Mr. Sayed Mohd. Zakir Anis Ahmed has filed the present complaint under section 285, 336 (3), 337, 339, 430, 426, 108 of The Bharatiya Nyaya Sanhita, 2023 and under the provision of Explosive Rules Factories Act, 1948 etc. against accused persons and prayed for matter be sent to police station–Vakola for investigation under section 175 (3) of the The Bharatiya Nagarik Suraksha Sanhita, 2023.

2. According to the complainant accused No.8 Apex Gas Agency does not have any godown to store LPG Cylinder in the city of Mumbai and outside the city of Mumbai. But accused No.1 to No.7, who are Directors and Officers of Bharat Petroleum Corporation Ltd. have blatantly concluded with dealership of accused No.8. It is contended that, on 24/02/2025 complainant noticed that, the sales office of accused No.8 agency is situated, at Santacruz (E), on Station Road, which is busy with vehicular traffic and also having heavy public movement and a truck filled with LPG gas cylinder is in a broad day light is parked in front of said office and said loaded truck is being used by the said agency, as make shift godown to store and distribute LPG Cylinders. The said act of accused No.8 is violating the rules and regulations regarding storing of gas cylinders issued by the Government.

3. It is further contended that, even accused No.8 violating the rules of Fire and Safety measures. There is every possibility of any mishap about the explosion of the gas cylinders in public way, which would result to cause heavy loss to the property as well as it is endangering to the life of public at large. The said fact brought to the notice of accused No.1 to

No.7. However, they did not have taken any action and continued the dealership of accused No.8.

4. The complainant has made complaint to the police station–Vakola dated 24/02/2025 but no action has been taken by the police. Therefore, complainant constrained to file the present complaint.

5. Ld. Advocate Shri Havnur for complainant submitted that, recently in Dharavi the cylinders loaded on the truck has been exploded. In the said incident 20 and more cylinders have been blast and the fire has started. He further submitted that, accused No.8 agency has no godown to store the gas cylinders. The said agency by parking fully loaded truck with cylinders in front of it's office, distributing the cylinders and said act is violation of the safety rules and regulations issued time to time by the Government.

6. He further submits that, the said fact brought to the notice of accused No.1 to No.7 by issuing letter dated 18/02/2025 but no appropriate steps have been taken by the said authority. The police station–Vakola but no offence registered. Ld. Advocate Shri Havnur further submitted that, the complaint discloses commission of cognizance of offences. There is every possibility of explosion of cylinders on loaded truck, which would result endangering the life of public at large.

7. Despite of complaint made to the police station no action has been taken. Though accused No.1 to No.7 are public servant but not taking the appropriate action in order to prohibit the violation of the safety measures is not at all come under their duty. Therefore, sanction to prosecution against them is not at all required. Lastly, he prayed that, still offence is being continued by accused No.8 which is cognizable offence, Therefore, for detail investigation the matter be sent to police

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station–Vakola under the provision of 173 (3) of The Bharatiya Nagarik Suraksha Sanhita, 2023.

8. I have gone through the complaint and documents placed on record. It is to be noted that, in order to show that, the accused No.8 has no godown to store the gas cylinders, no documents placed on record. Further, on 24/02/2025 the complaint to police station–Vakola came to be given. However, as per the provision of section 173 (4) of The Bharatiya Nagarik Suraksha Sanhita, 2023 the complainant has not sent the complaint in writing by post to the Superintendent of Police or the Commissioner of Police.

9. Sub-Section (4) of section 173 of The Bharatiya Nagarik Suraksha Sanhita, 2023 provides that,

any person aggrieved by refusal on the part of officer in charge of police station to record the information referred to in sub-section (1) may sent the substance of such information, in writing or by post, to the Superintendent of Police concerned, who if satisfied that, such information discloses the commission of a cognizable offence shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita and such officer shall have all power of an officer in charge of police station in relation to that offence failing which such aggrieved person may make an application to the Magistrate.

10. Upon plain reading of the above provision it appears that, upon refusal to record the information the informant has to send the complaint or information disclosing commission of cognizable offence to the Superintendent of Police by post. In present case at hand the complainant has not made the compliance of sub-section (iv) of section 173 of the The Bharatiya Nagarik Suraksha Sanhita, 2023. Further, the detailed affidavit supporting the contents of complainant is also not filed on record by the complainant. Therefore, the prayer to send the matter for investigation to police, as prayed, cannot be granted. Hence, the prayer to that effect is hereby rejected. The complainant shall lead his evidence under section 223 (i) of the The Bharatiya Nagarik Suraksha Sanhita, 2023.

Place : Bandra, Mumbai.
Date: 27/03/2025.
SRD.

Sd/-
(A. B. Jadhav)
Judicial Magistrate, (First Class),
71st Court, Bandra, Mumbai.

Dictated on :- 27/03/2025.

Transcribed on :- 27/03/2025.

Checked on :- 27/03/2025.

Signed on :- 27/03/2025.

SRD