



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 14865 OF 2021 (GM-RES)

BETWEEN:

1. SRI.RAJESH SUKUMARAN NAIR,
OCCUPIER
M/S ULTRA LABORATORIES PVT. LTD.
PLOT NO.102-B AND 102-B(P-1),
SEZ PHARMA, KIADB INDUSTRIAL ESTATE,
HASSAN-573212

RESIDENTIAL ADDRESS:
RESIDING AT 14126,
PRESTIGE TRANQUILITY,
BUDIGERE CROSS,
OFF. OLD MADRAS ROAD,
BOMMENEHALLI,
BANGALORE-5060049.

2. SRI. M.R. RAVI,
MANAGER (NOVEMBER 2019 TO TILL DATE),
M/S ULTRA LABORATORIES PVT. LTD.,
FLAT NO.008, GROUND FLOOR,
SUNITHA RESIDENCY,
AMBALIPURA RESIDENCY,
HARLUR ROAD, OFF. SARJAPUR
BANGALORE-560102

...PETITIONERS

(BY SRI. KASTHURI K., SENIOR ADVOCATE FOR
SMT. SUBHA ANANTHI K., ADVOCATE)

AND:

1. THE ASSISTANT DIRECTOR OF FACTORIES,
HASSAN DIVISION,
NO.2040, HOTEL NEAR APOORVA PARK ROAD,





HASSAN-573201

2. UNION OF INDIA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF LABOUR, RAFI MARG,
NEW DELHI-110001

...RESPONDENTS

(BY SRI. M.R.PATIL, HIGH COURT GOVERNMENT PLEADER FOR
RESPONDENT NO.1;

SMT. VANI GOWDA K.B., CENTRAL GOVERNMENT COUNSEL FOR
RESPONDENT NO.2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE
CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CODE
OF CRIMINAL PROCEDURE, 1973 PRAYING TO CALL FOR RECORDS
OF THE LEARNED PRINCIPAL CIVIL JUDGE AND JMFC, HASSAN IN FR
NO.CC/193/2021, REGISTRATION NO.CC/193/2021 ORDER DATED
01.03.2021 AT ANNEXURE-B PERTAINING TO THE COMPLAINT
DATED 18.01.2021 OF THE ASSISTANT DIRECTOR OF FACTORIES,
HASSAN AT ANNEXURE-A AND QUASH AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN
'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioners have challenged the prosecution launched
against them by the respondent No.1 in C.C.No.193/2021 on
the file of the II Additional Civil Judge and JMFC, II Court at
Hassan, for the offences punishable under Sections 51 and 54,



which are punishable under Section 92 of the Factories Act, 1948 (henceforth referred to as 'the Act, 1948').

2. The petitioners contend that M/s.Ultra Laboratories Private Limited is a multinational pharmaceutical company manufacturing generic drugs and has its registered office at Bangalore and its manufacturing unit at Hassan. The respondent No.1 launched prosecution against the petitioners in C.C.No.193/2021 on the allegation that when he visited the factory on 20.10.2020, he noticed that the company was allowing the workers to do overtime every month and paying twice the wages only on the basic wages and DA wages during the years 2017, 2018 and October 2019, instead of paying twice their gross wages and thereby contravened Sections 59(1) and 59(2) of the Act, 1948. He also alleged that by engaging the workers in a factory for more than 48 hours in a week, the occupier and manager had contravened Section 51 of the Act, 1948 and by engaging workers on overtime for more than 9 hours in a day, they had contravened Section 54 of the Act, 1948, which were all punishable under Section 92 of the Factories Act, 1948.



3. The trial Court, after perusing the material placed along with the criminal case, took cognizance and issued process to the petitioners. The petitioners being aggrieved by the same, are before this Court.

4. Learned counsel for the petitioners submitted that the accused No.2 was the manager in the factory between 2017 to 2019 and he was the only person responsible for any contravention. After he left the services of the company, he was creating serious problems and lodging anonymous complaints against the company. He was also intimidating the workers to go against the management. They contend that one Mr.Sultan Patel was the manager between May 2019 to October 2019 and he is arraigned as an accused. They therefore contend that as the occupier and manager from November 2019 but onwards, respectively, they are not liable for the offences alleged.

5. (i) The learned counsel for the petitioners submitted that there is no provision in the Factories Act, 1948 for overtime wages. Therefore, the criminal case lodged against the petitioners is without any basis. He also contends that there



is no mention in the criminal case about particulars of the workers who were paid overtime wages and who are deprived of the overtime wages and the complaint is very vague and uncertain.

(ii) They also contend that the respondent No.1 has not arraigned the company as an accused and therefore, these petitioners cannot be arraigned as an accused. He contends that if any work is extracted from the employees more than what is provided under the Act, 1948, it is pursuant to a policy decision of the company and therefore, the company ought to be arraigned as an accused and since that is not done, the prosecution of the petitioners or mere employees of the company is vitiated.

6. The learned High Court Government Pleader appearing for respondent No.1 submitted that the Factories Act, 1948, is a labour welfare legislation intended to protect the interests of the labourers/employees working in a factory. He contends that the respondent No.1 after inspection of the factory has recorded in his inspection notes about the violation of the provisions of the Factories Act, 1948 and has also



collected all relevant material. He contends that the petitioners cannot assail the legitimacy of the proceedings initiated against them. He contends that if there is no violation, it is for the petitioners to establish before the trial Court. As regards the contention that the company was not arraigned as a party, he contends that a manager employed in a factory is responsible and therefore, the proceedings vis-à-vis the petitioners cannot be halted.

7. I have considered the submissions of the learned counsel for the petitioners and the learned High Court Government Pleader for the respondent No.1.

8. A perusal of Section 93 of the Factories Act, 1948, which reads as follows:

"93. Liability of owner of premises in certain circumstances.-(1) *Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water-supply, lighting and sanitation.*

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to



the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of-

- (i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;*
- (ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;*
- (iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;*
- (iv) precautions in case of fire;*
- (v) maintenance of hoists and lifts; and*
- (vi) maintenance of any other common facilities provided in the premises.*

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises



independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of Section 46 or Section 48.

(7) Where in any premises, portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of-

- (i) Chapter III, except Sections 14 and 15;*
- (ii) Chapter IV, except Sections 22, 23, 27, 34, 35 and 36:*

Provided that in respect of the provisions of Sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

- (iii) Section 42.*



(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act, the total number of workers employed, the whole of the premises shall be deemed to be a single factory."

9. A perusal of the criminal complaint lodged by the respondent No.1 would show that except arraigning the managers and employees of the company, the respondent No.1 has not taken out proceedings against the owner of the factory namely, M/s.Ultra Laboratories Private Limited.

10. It is now well settled that there is no vicarious liability in criminal action and unless it is shown how the employees of the company are directly responsible for the affairs of the company, they cannot be held liable for any acts, which are penal in nature. This apart, in the complaint lodged nothing is attributed to the petitioners *per se* and it is not mentioned how the petitioners are responsible.



11. In that view of the matter, the prosecution launched against the petitioners is liable to be halted. Consequently, the following order is passed:

ORDER

- i. The petition is ***allowed***;
- ii. The impugned prosecution of the petitioners/accused Nos.1 and 4 respectively, in C.C.No.193/2021 registered for the offence punishable under Section 92 of the Factories Act, 1948, pending on the file of the II Additional Civil Judge and JMFC II Court, Hassan, is quashed.

**Sd/-
(R. NATARAJ)
JUDGE**