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SUPREME COURT ON BREACH OF SETTLEMENT OR AWARD UNDER THE INDUSTRIAL DISPUTES ACT.

The Supreme Court (“**SC**”), in *Yugal Sikri* case¹ on July 30, 2024, held that a complaint under Section 29² of the Industrial Disputes Act (“**ID Act**”), 1947 must have a specific pleading regarding the breach of the settlement or award binding on the accused employers. Before setting criminal law in motion, careful application of mind by magistrate is necessary.

Brief Facts.

Arvind Kumar Tiwari (“**Tiwari**”), an employee representative and respondent in the matter had filed complaint against Yugal Sikri and others (“**Appellants**,” the employers) alleging the commission of offence punishable under Section 29 read with Sections 32³ and 34⁴ of the Industrial Disputes Act, 1947 (“**ID Act**”). The complainant also accused the Appellants of violating the provisions of Section 9A of the ID Act, mandating notice of change in conditions of service of workmen.

The magistrate took cognizance of the alleged offence. Aggrieved by Order of the magistrate, the Appellants filed Section 482⁵ (of the Criminal Procedure Code, 1973 (“**CrPC**”)) of the petition before the Allahabad High Court (“**HC**”). HC dismissed the petition. The Appellants moved the Supreme Court (“**SC**”).

Parties’ Contentions.

Appellants’ Contentions

Section 29 is attracted when there is a breach of any settlement or award binding on the accused under the ID Act.

No averment in the complaint about the breach of the any particular settlement or award.

No private person can file complaint under Section 34. It can only be made by or under the authority of the appropriate government.

¹ *Yugal Sikri and others vs. State of UP and Another*, (2024) SCC OnLine SC 2053.

² Section 29 of the ID Act: Penalty for breach of settlement or award.

³ Section 32 of the ID Act: Offences by companies, etc.

⁴ Section 34 of the ID Act: Cognizance of offences.

⁵ Section 482 of the CrPC: Saving of inherent powers of High Court.

Tiwari's Contention

In the complaint, it is specifically alleged that an agreement was incorporated in the joint affidavit of the parties and violation of the agreement is alleged.

SC's Judgment and Reasoning.

The SC:

- Held that a complaint alleging offence under Section 29 of the ID Act must specifically state the existence of a settlement or award binding on the accused and detail how the accused breached it under the Act.
- Held that Tiwari has not been able to place on record, along with the complaint, any written settlement within the meaning of Section 2(p)⁶ of the ID Act between the parties, which is binding under the ID Act.
- Held that no case has been made out in the Complaint and statement recorded under Section 202⁷ of the CrPC of breach of any settlement.
- It held: *“The learned Magistrate should have considered the averments made in the complaint and the statements of [Tiwari] and his witness recorded by him before deciding whether a prima facie case of commission of an offence punishable under Section 29 of the ID Act is made out. He ought to have verified whether a lawful authority was granted to [Tiwari] to file a complaint alleging a violation of Section 29 of the ID Act. Setting criminal law in motion has serious consequences. It cannot be done casually by the learned Magistrate. Therefore, careful application of mind by the learned Magistrate was necessary before deciding to take cognizance. However, that was not done in the present case.”*⁸
- Overturned the HC's decision, quashed the complaint proceedings, and revoked the Magistrate's summoning order.

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⁶ Section 2(p) of the ID Act: “settlement” means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to [an officer authorised in this behalf by] the appropriate Government and the conciliation officer]

⁷ Section 202 of CRPC: Postponement of issue of process.

⁸ Paragraph 12 of the Judgment.