18 SCOB [2023] HCD 275

HIGH COURT DIVISION
(Criminal Miscellaneous Jurisdiction)

Criminal Miscellaneous No.41984 of 2023

Professor Muhammad Yunus alias Professor Dr. Muhammad Yunus and others
Vs.
The State and another

Mr. Abdullah Al Mamun, Senior Advocate with
Mr. Khaja Tanvir Ahmed with
Mr. S.M. Mizanur Rahman with
Mr. Md. Ibrahim, Advocates
…..for the petitioners.

Mr. Khorshed Alam Khan, Senior Advocate
….for the opposite party No.2

Mr. Sujit Chatterjee, DAG with
Ms. Farhana Afroze Runa, A. A. G with
Mr. Abdul Aziz Masud, A. A. G. with
Md. Shamim Khan, A. A. G
…… For the State, opposite party

Heard on: 07.08.2023
Judgment on: 08.08.2023.

Present:
Mr. Justice S M Kuddus Zaman
And
Mr. Justice Shahed Nuruddin

Editors' Note:

In the instant case the petitioners challenged the charge framing order passed by the learned Chairman of Third Labour Court against them under sections 303(Uma) and 307 of Bangladesh Labour Act, 2006. Their argument is that the Labour Court possesses the powers of Civil Court, Criminal Court and Mediator and provides remedy mainly by monitory compensation. Subjecting an owner or director of a company to criminal prosecution is an exception and is the last resort. No such criminal prosecution is permissible without exhausting the civil remedies available under the above Ain. Since the alleged violations of Sections 4, 117 and 134 of Bangladesh Labour Act 2006 have been sufficiently compensated by alternative civil remedy, the Complainant committed serious illegality in lodging complaint against the petitioners without exhausting civil remedies. On the other hand contention of the opposite party was that the petitioners are continuously and intentionally violating the provisions of sections 4, 117 and 234 of Bangladesh Labour Act, 2006 and they refused to stop above violations and take remedial measure despite repeated written requests by the complainant. As such the complainant had no option but to lodge this complaint. The High Court Division, hearing both the parties came to the conclusion that the charge framing order was valid and consequently the Rule was discharged.

Key Words:
Sections 4 (7) (8), 117, 234, 303(Uma) and 307 of the Bangladesh Labour Act, 2006; Labour Welfare Foundation Law, 2006; Section 200, 241A of the Code of Criminal Procedure, 1898

Section 4, 117, 234 and 307 of the Bangladesh Labour Act, 2006:

Infringements of sections 4, 117 and 234 have not been made punishable in any other provisions under Chapter 19 of the Act No.42 of 2006. As such infringements of above

provisions are punishable under section 307 of the Bangladesh Labour Ain, 2006 and subject to sentence of fine upto Tk.25,000/- (Para 29)

Section 303 (umo) of Act the Bangladesh Labour Act, 2006:
In view of specific allegations that the petitioners intentionally failed to create, maintain and send to the complainant the registers of leave, register of daily attendance, the register of overtime of the labourer and employees and register of works, we are unable to find any prima facie substance in the submissions of the learned Advocate for the petitioners that the framing of the charge under section 303 (umo) of Act No.42 of 2006 against the petitioners is without any lawful basis. (Para 39)

Section 4, 117, 234 and 319(5) of the Bangladesh Labour Act, 2006:
It is admitted that at the instance of the Collective Bargaining Agent of the Employees and Labour Union of the GTC Industrial Dispute Case No.1666 of 2019 has been filed and the same is still pending in the Labour Court for final settlement. But the learned Advocate for the petitioners could not show us any law which prevents the inspection of the GTC by an authorized Inspector and lodging of a complaint for violations of some provisions of Act No.42 of 2006 during pendency of above Industrial Dispute Case. As mentioned above this complaint has been filed under section 319(5) of Act No.42 of 2006 by an authorized Inspector alleging repeated violations of provisions of section 4, 117 and 234 of above Act by the GTC which is an important actor working in the telecommunication sector of Bangladesh. The petitioners are Chairman, Managing Director and Directors of the GTC. This is not a criminal case under the Penal Code instituted by a law of enforcement agency. On consideration of above materials on record we are unable to find any substances in the submissions of the learned Advocate for the petitioners that this case has been falsely instituted to tarnish the internationally acclaimed personality of petitioner No.1 who is a Nobel lauriate. (Para 43 & 44)

JUDGMENT

S M Kuddus Zaman, J:

1. Upon an application under section 561A of the Code of Criminal Procedure (shortly Cr.P.C.) this rule was issued calling upon the opposite parties to show cause as to why the order dated 06.06.2023 passed by the Chairman, 3rd Labour Court, Dhaka framing charge against the accused-petitioners under sections 303 (Uma) and 307 of the Bangladesh Labour Act, 2006 in B.L.A (Criminal) Case No.228 of 2021 on rejection of the application for discharge filed by them under section 241A of the Code of Criminal Procedure, 1898 should not be quashed and/or pass such other or further order or orders as to this Court may seem fit and proper.

2. Facts in short are that Mr. S.M. Arifuz Zaman, Labour Inspector (General) Department of Inspection, Factories and Establishment, Dhaka lodged a complaint on 20.08.2021 with the third Labour Court, Dhaka alleging that in course of inspection of Grameen Telecom Company (hereinafter referred to as GTC) he detected the infringements of the following provisions of Bangladesh Labour Ain, 2006 and Bangladesh Labour Rules, 2015.

(1) On completion of probationary period jobs of the labourers and employees are not made permanent in violation of section 4(7)(8) of the Bangladesh Labour Ain, 2006 (herein after referred to Act No.42 of 2006)

(2) Labourers and Employees are not granted annual leave with pay or money against earned leave in violation of section 117 of Act No.42 of 2006, and,
(3) Labourers Participatory Fund and Labour Welfare Fund were not constituted and 5% of the net profit of the GTC was not deposited in above funds under the Labour Welfare Foundation Law, 2006.

3. The complainant sent by registered post a letter to the accused persons vide Memo No.3982/(Uma)/Dhaka on 01.03.2020 for stopping above violations and taking remedy measures. The accused persons sent a letter of compliance on 09.03.2020 which was found to be not satisfactory. On the direction of the higher authority he again inspected GTC on 06.08.2021 and finding repetition of above violations sent another letter on 19.08.2021 to the accused persons who again sent a letter of reply but the same was found to be not satisfactory. The accused persons have committed infringements of the provisions of section 4(7)(8), 117 and 234 of Act No.42 of 2006 which is punishable under section 303(Uma) and 307 of the above Ain.

4. The learned Judge of the Labour Court examined the complainant under section 200 of the Code of Criminal Procedure and took cognizance of above complaint and initiated above proceedings.

5. Being aggrieved by initiation of above proceedings petitioner Nos.1 and 2 moved to this Court with two separate applications under section 561A of the Code of Criminal Procedure for quashment of above proceedings which gave rise to Criminal Miscellaneous Case No.49766 of 2021 and Criminal Miscellaneous Case No. 49112 of 2021 respectively.

6. Above two Criminal Miscellaneous Cases being No.49766 of 2021 and 49112 of 2021 were heard by this Court simultaneously and both the Rules were discharged vide judgment and order dated 17.08.2021.

7. Challenging the legality and propriety of above judgment and order passed by this Court petitioner No.1 preferred Criminal Petition for Leave to Appeal No.1077 of 2022 and Petitioner No.2 preferred Criminal Petition for leave to Appeal No.1078 of 2022 to the Appellate Division of the Supreme Court of Bangladesh and by two separate judgments dated 08.05.2023 the Appellate Division dismissed both the petitions on merit finding no legal infirmity in the judgment and order of this Court.

8. On consideration of the complaint and other materials on record the learned Chairman of Third Labour Court constituted charge against all four accused persons under sections 303(Uma) and 307 of Act No.42 of 2006 vide impugned judgment and order dated 06.06.2023.

9. Being aggrieved by above judgment and order passed by the learned Chairman, Third Labour Court, Dhaka all the four accused persons jointly moved to this Court with an application under section 561A of the Code of Criminal Procedure, 1898 and obtained this Rule.

10. Challenging the legality and propriety of issuance of above rule opposite parties moved to the Appellate Division by preferring Criminal Petitioner for leave to Appeal Nos.1781 of 2023 and 1791 of 2023. The Appellate Division disposed of those petitions by

issuing a direction upon this Court to hear and dispose of this rule on merit as expeditiously as possible preferably within a period of 02 (two) weeks.

11. Mr. Abdullah Al Mamun, the learned Advocate appearing for the petitioners submits that the Labour Court established by the Bangladesh Labour Ain, 2006 possesses the powers of Civil Court, Criminal Court and Mediator and provides remedy mainly by monitory compensation. Subjecting an owner or director of a company to criminal prosecution is an exception and last resort. No such criminal prosecution is permissible without exhausting the civil remedies available under above Ain. Chapter-19 of the above Ain defines offence, sentence and procedure but in above Chapter of the Ain the infringements of the provisions of section 4(7)(8), 117 and 234 have not been defined as criminal offences nor any sentence has been provided for their alleged infringements.

12. If a labour is not made permanent by the owner or director of the company then the law automatically makes him permanent pursuant to section 4(8) of the above Ain. Alleged infringement of the provisions of section 234 for non establishment of Labour Participation Fund and Labour Welfare Fund sufficient remedy has been provided in section 236 of the above Ain and the money payable for above funds can be realized by imposition of fine or sale of the property of the company through Public Demands Recovery Act, 1913. As far as infringements of section 117 of above Ain by not granting annual leave with pay or encashment of leave are concerned remedy has been provided in sub-section (7) of above Section. Section 117 (7) provides that if a labour files an application for above leave and the same is rejected then above leave will be added to his annual leave. Since the violations of Sections 4, 117 and 134 of Act No.42 of 2006 have been sufficiently compensated by alternative civil remedy the Complainant committed serious illegally in lodging above Complaint without exhausting civil remedies.

13. In the case of S.M. Jahidul Islam and others Vs. Syed Ahmed Chowdhury reported in 4 CLR (AD) 2016 the Appellate Division has opined that no complaint under above Ain should be made directly under section 307 without seeking redress to the Labour Court for nonpayment of service benefits.

14. The learned Advocate next submits that no court other than the Labourer Court is authorized to take cognizance of an offence under Act No.42 of 2006. Section 313 (2) Umo of above Ain provides that the Labour Court shall not take cognizance unless the complaint has been lodged by the Chief Inspector or an officer authorized by him in this regard. There is no mention in the complaint that the complainant was authorized by the Chief Inspector of Labour under Section 319 (5) of above Ain. As such this complaint was submitted by an officer having no legal authority and the learned Chairman of the Third Labour Court committed serious illegality in framing of charge against the petitioners on the basis of the same which is not tenable in law.

15. The learned Advocate further submits that with regard to selfsame cause Industrial Dispute Case No. 1666 of 2019 has been instituted by the Collective Bargaining Agent of the Grameen Telecom Company Labours and Employee Union on 19.12.2019 and the same is still pending in the Labour Court for final settlement. During pendency of above proceedings in the Labour Court the Complainant committed serious illegality in conducting inspection of the GTC and then lodging this complaint.

16. The learned Advocate lastly submits that the instant preposterous, still born and unlawful proceedings has been initiated out of grudge and rivalry to vilify and tarnish the internationally acclaimed personality of the petitioner No.1 who is a Nobel Lauriate. The further continuation of this illegal proceeding shall not bring any fruitful result nor meet the ends of justice but it shall cause unnecessary sufferings and plight to the petitioners.

17. In support of above submissions the learned Advocate has referred to a case law from Indian Jurisdiction passed by the Indian Supreme Court in Criminal Appeal No.1183 of 1995 and reported in MANU/SC/0080/1996.

18. On the other hand Mr. Khorshed Alam Khan, the learned Advocate appearing for the opposite party No.2 submits that this is a second petition under section 561A of the Code of Criminal Procedure for quashment of the same criminal proceedings. Previously Criminal Miscellaneous Case No.49766 of 2021 and Criminal Miscellaneous Case No.49112 of 2021 under section 561A of the Code of Criminal Procedure were filed separately by petitioner Nos.1 & 2 challenging the legality and propriety of initiation of this proceedings and the rules issued in above two proceedings were discharged by this Court. The legality and propriety of above two judgments and orders of this Court were challenged by above petitioners by two Criminal Petitions for leave to Appeal to the Appellate Division. The Appellate Division finding no legal infirmity in above judgments and orders of this Court dismissed both the petitions. As such the judgments and orders of this Court passed in above two Criminal Miscellaneous Cases have merged into the judgments pronounced by the Appellate Division in Criminal Petition for leave to Appeal Nos. 1791 of 2023 and 1781 of 2023 and this Court is bound by above judgment and order of the Appellate Division. As such admitting second petition under section 561A of the Criminal Proceeding and issuing the instant rule by the High Court Division is not tenable in law.

19. The learned Advocate further submits that this case has been lodged by an authorized Inspector who inspected the GTC twice on 09.02.2020 and 16.08.2021 and asked the petitioners to stop the infringements of the provisions of section 4, 117, 234 of the Labour Ain and take remedial measures by two separate letters dated 01.03.2020 and 19.08.221 respectively. The petitioners replied to both above letters where they admitted above infringements but refused to abide by the above laws. It was stated by the petitioners that the GTC is a non-profit company registered under section 28 of the Companies Act and works on contractual basis and the GTC has its own service and leave rules for its workers and employees and GTC is not subject to above provisions of the Act No.42 of 2006. As such the complainant had no option but to lodge a complaint against the petitioners.

20. The complainant who is an Inspector was empowered to lodge above complaint by Mr. Syed Ahmed, Chief Inspector by Official Notification No. 4000100010118002.16-76 dated 24.01.2007. The learned Advocate produced a photocopy of above Government Notification and submits that on the basis of above authorization this case has been lawfully filed under section 319(5) of Act. No.42 of 2006.

21. On consideration of the complaint, statement of the complainant under section 200 of the Code of Criminal Procedure and other materials on record the learned Chairman of the Third Labour Court has rightly framed charge against the petitioners under sections 303 (Uma) and 307 of Act No.42 of 2006 which calls for no interference.

22. Mr. Sujit Chatterjee, the learned Deputy Attorney General appearing for the State-opposite party No.1 submits that for quashment of the same proceedings more than one petition under section 561A of the Code of Criminal Procedure is not tenable in law. The petitioners could come to this Court with an application under section 435 and 439 of the Code of Criminal Procedure challenging the framing of the charge.

23. The learned Deputy Attorney General lastly submits that the petitioners are continuously and intentionally violating the provisions of sections 4, 117 and 234 of Act No.42 of 2006 and they refused to stop above violations and take remedial measure despite repeated written requests by the complainant. As such the complainant had no option but to lodge this complaint. As such the rule issued in this connection is devoid of any substance and liable to be discharged.

24. We have considered the submissions made by the learned Advocates for the respective parties and carefully examined all materials on record.

25. It is admitted that petitioner Nos.1 and 2 instituted two separate Criminal Miscellaneous Case being Nos. 49112 of 2021 and 49766 of 2021 both under section 561A of the Code of Criminal Procedure for quashment of the proceedings of this case and both the rules issued in connection of above two cases were discharged by this Court and challenging the legality and propriety of above judgments and orders of this Court the petitioners preferred two separate Criminal Petitions for leave to Appeal Nos. 1791 of 2023 and 1781 of 2023 to the Appellate Division and both above petitions were dismissed on 8 May, 2023. Thereafter the instant Criminal Miscellaneous Case No.41984 of 2023 has been preferred jointly by all four petitioners under section 561A of the Code of Criminal Procedure for quashment of the order of framing of charge. The learned Advocates for the opposite parties have raised objections as to the maintainability of this rule on the ground that the rule conflicts the judgment and order passed by the Appellate Division in Criminal Petition for Leave to appeal Nos.1077 of 2022 and 1078 of 2022. Since this Rule has been sent to us by the Appellate Division for expeditious hearing and disposal on merit we are unable to find any substance in above objections raised by the learned Advocate for the opposite parties.

26. In our previous judgments passed in Criminal Miscellaneous Case Nos.49112 of 2021 and 49766 of 2021 we discharged both the rules with following findings:

> "Secondly it turns out from above replies of the GTC as reproduced at paragraph No.8 of this application under section 561A of the Code of Criminal Procedure that the GTC has in fact admittedly all the allegations made in complaint. The GTC has tried to justify its position in above replies stating that the GTC was registered under section 28 of the Companies Act as a non-profit company so the provisions of constitution of a Labour Welfare Fund and deposit of 5% of the net profit to that account are not applicable for the GTC.
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> As far as the allegation that after completion of probationary period the jobs of the labours are not made permanent is concerned it has been stated that all employees and labours of the GTC are appointed on contractual basis, So, their jobs cannot be made permanent. As to not granting of the annual leave with pay or encashment of annual leave it has been stated that after completion of six years contractual service the employees and labours get leave with pay or one month full salary in lieu of leave".

27. Above findings of this Court have been affirmed by the Appellate Division in Criminal Petition for Leave to Appeal No.1791 of 2023 and 1781 of 2023. As such above

findings are binding upon us. The learned Advocate for the petitioners also reiterated above position of the GTC at the time of hearing. In view of above materials on record we find prima facie substance in the submissions of the learned Deputy Attorney General that the petitioners are continuously violating the provisions of sections 4, 117 and 234 of Act No.42 of 2006 and they had refused to stop violations and adopt remedial measures.

28. It is true that Chapter 19 of the Bangladesh Labour Ain, 2006 (Act No.42 of 2006) provides for offence, sentence and procedure and there is no specific provision in above Chapter making the infringements of the provisions of section 4, 117 and 324 a punishable offence. But Section 307 of above Chapter of Act No.42 of 2006 provides as follows:

> "৩০৭। অন্যান্য অপরাধের দন্ড (penalty for other offences) । কোন ব্যক্তি এই আইন বা কোন বিধি, প্রবিধান বা স্কিমের কোন বিধান লঙ্ঘন করিলে বা মানিতে ব্যর্থ হইলে, এবং ইহার জন্য উহাতে অন্য কোন দন্ডের বিধান না থাকিলে, তিনি ২৫,০০০/- টাকা পর্যন্ত অর্থ দন্ডে দন্ডিত হইবেন।" Above provision provides that the infringements of any section of above law or any Rule, Regulation or scheme under above law which is not made punishable by any other provision be punished with fine which may extend to Tk.25,000/-.

29. As mentioned above infringements of sections 4, 117 and 234 have not been made punishable in any other provisions under Chapter 19 of the Act No.42 of 2006. As such infringements of above provisions are punishable under section 307 of the Bangladesh Labour Ain, 2006 and subject to sentence of fine upto Tk.25,000/-

30. The learned Advocate for the petitioners has rightly pointed out that pursuant to section 303(2) and 319(5) of Act No.42 of 2006 only the Inspector General or an officer authorized by him in this regard can lodge a complainant for an offence punishable under section 307 or section 303 (Umo) of the Act No.42 of 2006.

31. As mentioned above the complaint has been filed by Mr. S.M. Arifuz Zaman, Inspector of Labour (General). As to his capacity to lodge the complaint the complainant has stated as follows: "মহামান্য আদালত সমীপে সবিনয় নিবেদন এই যে, রাষ্ট্রের পক্ষে অত্র মামলার বাদী বাংলাদেশ শ্রম আইন, ২০০৬ এর ৩১৯(১) ধারার ক্ষমতা প্রাপ্ত একজন পরিদর্শক এবং এতদ্বসংক্রান্ত ক্ষমতা প্রয়োগের অধিকার।" The complainant claims to be an authorized inspector to exercise power under section 319(1).

32. The learned Advocate for opposite party No.2 has produced before us Notification No.4000100010118002.16-76 dated 24.01.2007 issued by the গণপ্রজাতন্ত্রী বাংলাদেশ সরকার, কলকারখানা ও প্রতিষ্ঠান পরিদর্শন অধিদপ্তর, ২৩-২৪, কাওরান বাজার, ঢাকা-১২১৫ and signed on 24.01.2017 by Syed Ahmed the Chief Labour Inspector (Additional Secretary). Article 3 of above Notification authorizes all Inspectors of 64 Districts to exercise power under section 319(5) of Act No.42 of 2006.

33. In this regard the learned Advocate for the petitioners submits that above notification was not produced at the time of lodging of the complaint or at the time of examination of the complainant under section 200 of the Code of Criminal Procedure nor the Notification was made an attachment with the complaint. Above notification is a forged and concocted document prepared for the purpose of this case and no reliance can be placed on above document.

34. Above Notification No.40.01.0000.101.18.002.16-76 dated 24.01.2017 appears to be a document of the Government which enjoys a presumption as to regularity pursuant to

Section 114 Illustration (e) of the Evidence Act, 1872. As mentioned above the complainant has stated in the complaint that he was lodging the complaint as an authorized Inspector.

35. The learned Advocate for the petitioner further submits that this court committed a factual error in its previous judgments passed in Criminal Miscellaneous Case No.49766 of 2021 and Criminal Miscellaneous Case No. 49112 of 2021 by erroneous mentioning that this case was filed under section 319(5) of Act No.42 of 2006. However the learned Advocate conceded that he did not raise above factual error before the Appellate Division at the time of hearing of Criminal Petition for Leave to Appeal Nos. 1077 of 2022 and 1078 of 2022. It turns out from the petition filed by the petitioners under section 421(A) of the Code of Criminal Procedure for discharge in the Labour Court that in above petition it was not stated that the instance case was not filed by an authorized officer under section 391(5) of the Act No.42 of 2006. We have also scrutinized the impugned order of the Labour Court and found that above point was not raised in above proceedings. As far as we can recollect the learned Advocate for the petitioners did not raise above point before us during hearing of Criminal Miscellaneous Case Nos.49766 of 2021 and 49112 of 2021.

36. On consideration of above materials on record we hold that the prosecution has succeeded to prove prima facie that the complainant was an officer authorized under section 319(5) of the Act No.42 of 2006 to lodge this complaint.

37. The petitioners will be at liberty to prove at trial by way of cross-examination of the prosecution witnesses and adducing defense evidence that above Government Notification is a false and fabricated document and created for the purpose of this case and it was not in fact issued or signed by the Inspector General of Labour on 24.1.2017.

38. It has been stated in the communication dated 01.03.2020 and 19.08.2021 made by the complainant with the petitioners that they were continuously violating the provision of section 4, 117, 234 of the Act No.42 of 2006 and failed to create, maintain and send (1) the registers of daily attendance of the labour and employees, (2) the register for overtime work of the labourer and employees and (3) the register for encashment of the annual leave and the register for leave. As mentioned above the petitioners did not deny above allegations. Section 303(Uma) of the Act No.42 of 2006 provides as follows; **"(ঙ)** এই আইন অথবা কোনো বিধি, বিধান, প্রবিধান বা স্কীমের অধীন রক্ষণীয় বা প্রেরিতব্য কোনো নকশা, তালিকা, নথি, রেজিস্টার, তথ্য, রিপোর্ট অথবা অন্য কোনো দলিল-দস্তাবেজ ইচ্ছাকৃতভাবে রক্ষণ করিতে অথবা প্রেরণ করিতে ব্যর্থ হইলে অথবা গাফিলতি করিলে; তিনি ছয় মাস পর্যন্ত কারাদন্ডে, অথবা পাঁচ হাজার টাকা পর্যন্ত অর্থদন্ডে, অথবা উভয় দন্ডে দন্ডনীয় হইবেন।" Above provision provides that if any person intentionally fails to create maintain or send any index, list, record, register, information or register or any other document which he is required to create, maintain and send under any Law, Rule, Regulation or scheme under this Act he will be liable to suffer imprisonment which may extend upto 6 months or fine of Tk. 5,000/- or with both.

39. In view of specific allegations that the petitioners intentionally failed to create, maintain and send to the complainant the registers of leave, register of daily attendance, the register of overtime of the labourer and employees and register of works, we are unable to find any prima facie substance in the submissions of the learned Advocate for the petitioners that the framing of the charge under section 303 (umo) of Act No.42 of 2006 against the petitioners is without any lawful basis.

40. It is true that for violation of section 234 a civil remedy has been provided in section 236 of the Act No.42 of 2006. But there is no legal bar against proceeding under section 307

without taking recourse to the provisions of section 236. Moreover this complaint has been lodged under section 319(5) of above Act for stopping continuous violation of sections 4, 117, and 234 not or realization of financial benefits.

41. We have carefully gone through the judgment of the Supreme Court of Bangladesh reported in 4 CLR (AD) (2016) and found that above case was filed by an individual labourer for realization of his service benefits. On the other hand this case was filed by an authorized Inspector of the Government under section 319 (5) of Act. 42 of 2006 to prosecute the petitioners for continuous infringements of sections 4, 117 and 236 of above Act and their refusal to stop above infringements and taking of remedial measures.

42. We hold that the facts and circumstances of the cases referred to above by learned Advocate for the petitioners are distinguishable from those of this case and those case laws are not applicable in this case.

43. It is admitted that at the instance of the Collective Bargaining Agent of the Employees and Labour Union of the GTC Industrial Dispute Case No.1666 of 2019 has been filed and the same is still pending in the Labour Court for final settlement. But the learned Advocate for the petitioners could not show us any law which prevents the inspection of the GTC by an authorized Inspector and lodging of a complaint for violations of some provisions of Act No.42 of 2006 during pendency of above Industrial Dispute Case.

44. As mentioned above this complaint has been filed under section 319(5) of Act No.42 of 2006 by an authorized Inspector alleging repeated violations of provisions of section 4, 117 and 234 of above Act by the GTC which is an important actor working in the telecommunication sector of Bangladesh. The petitioners are Chairman, Managing Director and Directors of the GTC. This is not a criminal case under the Penal Code instituted by a law of enforcement agency. On consideration of above materials on record we are unable to find any substances in the submissions of the learned Advocate for the petitioners that this case has been falsely instituted to tarnish the internationally acclaimed personality of petitioner No.1 who is a Nobel lauriate.

45. In above view of the facts and circumstances of the case and materials on record we are unable to find any substance in this petition under section 561A of the Code of Criminal Procedure and the rule issued in this connection is liable to be discharged.

46. In the result, the rule is discharged.

47. Communicate the judgment and order to the Court concerned at once.