

Section 452 of the Companies Act, 2013 has not been decriminalised by Amendment Act 29 of 2020, and the amendment only introduced a proviso protecting former employees from imprisonment in cases where the company has defaulted on statutory dues. The jurisdiction to try an offence under Section 452 vests exclusively with the competent Judicial Magistrate, and not with the Adjudicating Officer under Section 454

The **Kerala High Court** in the case of **Tata Coffee Limited vs Ramla [CRL.REV.PET No. 346 of 2026]** dated **July 01, 2026**, has clarified that Section 452 of the Companies Act, 2013 has not been decriminalised by Amendment Act 29 of 2020. The amendment only introduced a proviso protecting former employees from imprisonment in cases where the company has defaulted on statutory dues. The Court held that the jurisdiction to try an offence under Section 452 vests exclusively with the competent Judicial Magistrate (not below the rank of Chief Judicial Magistrate), and not with the Adjudicating Officer under Section 454.

The Court emphasised that the Adjudicating Officer's powers are confined to administrative penalties for statutory non-compliance and do not extend to criminal punishments. The express exclusion of Section 452 from the Special Courts under Section 435 further reinforces that criminal courts retain full cognizance over such offences.

The Court after examining Section 452 of the Companies Act, 2013, observed that the only change introduced by Amendment Act 29 of 2020 (effective 22.01.2021) was the insertion of a proviso to Sub-Section (2), which restricts the court from ordering imprisonment of a former employee in wrongful possession of a dwelling unit if the company has not paid dues such as provident fund, pension fund, gratuity, or workmen's compensation to that employee. No other change was made to Section 452 by the 2020 amendment.

The Court drew a sharp and critical distinction between "penalties" and "punishments" under the Companies Act. It held that Section 454, which empowers the Adjudicating Officer, deals only with penalties for non-compliance of statutory requirements, which are administrative, civil, or contractual in nature, and has no bearing on penal offences under the Act. The Court further noted that Section 452 expressly provides for a fine of not less than Rs. 1 lakh and extending to Rs. 5 lakhs, and Sub-Section (2) additionally empowers the Court trying the offence to order delivery of property and, in default, imprisonment extending up to two years.

Crucially, the Court pointed to Sections 435 and 436 of the Companies Act, which establish Special Courts for speedy trial of offences under the Act, and noted that Section 452 is expressly excluded from the jurisdiction of those Special Courts. This express exclusion, the Court held, makes it abundantly clear that it is the competent Judicial Magistrate, and not any Adjudicating Officer or Special Court, who is empowered to try the offence under Section 452.