



CNR: KAHC010365172019

NC: 2026:KHC:47199
CRL.P No. 3053 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

CRIMINAL PETITION NO. 3053 OF 2019 (482(Cr.PC) /
528(BNSS))

BETWEEN:

1. M/S. BELOORBAYIR BIOTECH LTD.,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE AT
NO.4112, UTKARSHA,
3RD AND 4TH FLOOR, K.R. ROAD,
BANASHANKARI 2ND STAGE,
BANGALORE-560070
REPRESENTED BY ITS AUTHORIZED SIGNATORY,
MR. BELOOR GANAPAYYA BAIRY
2. MR. BELOOR GANAPAYYA BAIRY
THE MANAGING DIRECTOR,
AGED ABOUT 64 YEARS,
S/O. KRISHNA BAIRY,
RESIDING AT NO.274, II CROSS,
HOSAKEREHALLI,
BANASHANKARI II STAGE,
BANGALORE-560085
3. MR. AJAY GANAPAYYA BAIRY
THE WHOLETIME DIRECTOR,
AGED ABOUT 32 YEARS,
S/O. BELOOR GANAPAYYA BAIRY,
RESIDING AT NO.274, II CROSS,
HOSAKERE HALLI,
BANASHANKARI III STAGE,
BANGALORE-560085
4. MISS RACHANA P.V.
COMPANY SECRETARY,

Digitally
signed by
HEMALATHA J
Location:
HIGH COURT
OF
KARNATAKA



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AGED ABOUT 33 YEARS,
D/O VENKATARAMANA BHAT,
R/AT NO.639, 'SOWRABHA',
2ND A MAIN ROAD, 11TH BLOCK,
2ND STAGE, NAGARBHAVI,
BANGALORE-560072

5. MR. N. SRINIVASAN
CHIEF FINANCIAL OFFICER (KMP)
AGED ABOUT 50 YEARS,
S/O. NATARAJA SRINIVASAN,
RESIDING AT NO.251,
EMBASSY HERITAGE,
8TH MAIN ROAD,
MALLESHWARAM,
BANGALORE-560055

...PETITIONERS

(BY SRI. SHIRISH KRISHNA, ADVOCATE FOR PETITIONER NOS.1, 4
AND 5;

SRI. B. RAVINDRA, ADVOCATE FOR PETITIONER NOS.2 AND 3)

AND:

THE REGISTRAR OF COMPANIES
II FLOOR, 'E' WING,
KENDRIYA SADAN,
BANGALORE-560034
REPRESENTED BY
DEPUTY REGISTRAR OF COMPANIES.

...RESPONDENT

(BY SMT. ANUPAMA HEGDE, CENTRAL GOVERNMENT STANDING
COUNSEL)

THIS CRL.P IS FILED UNDER SECTION 482 OF THE CODE OF
CRIMINAL PROCEDURE, 1973 PRAYING TO QUASH THE ENTIRE
PROCEEDINGS IN C.C.NO.138/2019 PENDING AGAINST THE
PETITIONERS ON THE FILE OF THE SPECIAL COURT (ECONOMIC
OFFENCES) BANGALORE (ANNEXURE-A) AND ETC.



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THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON 29.04.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

CAV ORDER

The petitioners have called in question the proceedings initiated against them by the respondent in C.C. No.138/2019 pending trial before the Special Court (Economic Offences), Bengaluru and to quash the complaint dated 25.09.2018 filed by the respondent.

2. (i) The petitioners claim that the respondent filed PCR No.15/2018 under Section 200 of Criminal Procedure Code (Cr.P.C.) on 12.10.2018 alleging commission of an offence under Section 148(6) of the Companies Act, 2013 (henceforth referred to as 'Act, 2013' for short) which is punishable under Section 148(8) of the Act, 2013. As the private complaint was filed belatedly, an application under Section 473 of Cr.P.C was filed for condonation of delay of 823 days in filing the complaint. The petitioners entered appearance after receipt of notice and objections were filed to the application for



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condonation of delay. The petitioners contend that the Trial Court while holding that there was no justification for the delay, yet allowed the application on the ground that the petitioners cannot be let away. It took cognizance of the complaint vide order dated 16.04.2019 for an offence under Section 148(6) punishable under Section 148(8) of the Act, 2013 and registered C.C. No.138/2019 and issued process.

(ii) Being aggrieved by the above, the petitioners have filed this petition.

(iii) The petitioners contend that Section 148 of Act, 2013 provides that Central Government can direct a class of companies engaged in the production of such goods or providing such services as may be prescribed, that particulars relating to the utilisation of material or labour or other items of cost as prescribed, shall be included in the books of account. Section 148(3) of Act, 2013 provides that the cost audit shall be conducted by a cost accountant appointed by the board of the Company. A company is bound to file a report of the cost audit to the Central Government within 30 days. Section 148(8)



of the Act, 2013 provides that any default is punishable as an offence. The threshold limits for applicability of Section 148 is prescribed under Rule 4 of Companies (Cost Records and Audit) Rules, 2014 (henceforth referred to as 'Rules, 2014' for short), which mandates that every company covered under Section 148 and whose total turnover from all its products and services exceed Rs.50,00,00,000/- or the aggregate turnover of individual products or services which exceed Rs.25,00,00,000/- shall file the cost audit report.

(iv) The petitioners contend that petitioner No.1 is a company incorporated under the Companies Act, 1956 and petitioner Nos.2 to 5 are the officers of petitioner No.1. They contend that the allegation against the petitioners is that they failed to file the cost audit report for the financial year 2014-15 and hence, were liable to be prosecuted for an offence under Section 148(6) which is punishable under Section 148(8) of Act, 2013.

(v) The petitioners contend that the limitation prescribed for a prosecution in respect of an offence is laid



down under Section 468 of Cr.P.C. The respondent sought condonation of delay of 823 days, but failed to provide any good or sufficient reason for condoning the delay. Therefore, the Trial Court committed an error in condoning the delay. In support of this contention he relied upon the following judgments:

- "(i) State of H.P. Vs. Tara Dutt and another - (2000) 1 SCC 230;*
- (ii) Sarah Mathew Vs. Institute of Cardio Vascular Diseases - (2014) 2 SCC 62;*
- (iii) Pradeep and Ors. Vs. State of Rajasthan and Anr. - 2004 SCC Online Raj 271;*
- (iv) Sahara India (Firm), Lucknow Vs. Commissioner of Income Tax, Central-1 and another - (2008) 14 SCC 151."*

(vi) They contend that Rule 4 of the Rules, 2014 provides for the cost audit which prescribes the threshold limit for those categories of companies which are required to mandatorily submit a cost audit report in terms of Section 148 of the Act, 2013, which reads as follows:

"4. Applicability for cost audit.— (1) Every company specified in item (A) of rule 3 shall get its cost records audited in accordance with these rules if the



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overall annual turnover of the company from all its products and services during the immediately preceding financial year is rupees fifty crore or more and the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under rule 3 is rupees twenty five crore or more.

(2) Every company specified in item (B) of rule 3 shall get its cost records audited in accordance with these rules if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is rupees one hundred crore or more and the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under rule 3 is rupees thirty five crore or more.

(3) The requirement for cost audit under these rules shall not apply to a company which is covered in rule 3; and

- (i) whose revenue from exports, in foreign exchange, exceeds seventy five per cent of its total revenue; or*
- (ii) which is operating from a special economic zone.*
- [(iii) which is engaged in generation of electricity for captive consumption through Captive Generating Plant.*



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For this purpose, the term "Captive Generating Plant" shall have the same meaning as assigned in rule 3 of the Electricity Rules, 2005.]

(vii) They contend that for Rule 4 to apply, the annual turnover of the company from all its products and services during the immediately preceding financial year must be Rs.50,00,00,000/- or more and that the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under Rule 3 of Rules, 2014 must be Rs.25,00,00,000/- or more.

(viii) The petitioners contend that the aggregate turnover of the individual product or products or services of the petitioner No.1 did not exceed Rs.25,00,00,000/- during the financial year 2014-2015. As such, even if the allegations made in the complaint are accepted to be true, Section 148(6) of the Act, 2013 is not applicable to the petitioners. In support of this contention, the petitioners have placed on record the aggregate turnover of the petitioner No.1 during the financial year 2014-2015. They contend that the Trial Court without considering the same blindly took cognizance of the offence and issued process.



3. The learned counsel for the petitioners submitted that even if the delay in filing the private complaint is condoned, the Trial Court must have considered whether the petitioner No.1 committed an offence in not filing the cost audit report. He contends that when the total turnover of the petitioner No.1 from all its sources did not exceed Rs.50,00,00,000/-, there was no requirement for the petitioner No.1 to file its cost audit report. Likewise, he contends that the aggregate turnover of the individual product or service did not exceed Rs.25,00,00,000/- and hence the impugned prosecution is liable to be set aside.

4. (i) A counter-affidavit is filed by the respondent wherein it is contended that the petitioner No.1 was incorporated on 02.03.2005 and the petitioner Nos.2 and 3 are the Managing Director and Director, respectively, while petitioner Nos.4 and 5 are the Chief Financial Officer and Company Secretary, respectively of petitioner No.1. The respondent contends that Section 148 of the Act, 2013 mandates companies having the prescribed net worth to file a cost audit report in the following cases, namely:



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(a) The companies which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed in Rule 4 of the Rules, 2014 are required to get their cost records audited in accordance with the rules.

(b) If the overall annual turnover of the company from all its products and services during the immediately preceding financial year is Rs.50,00,00,000/- or more and the aggregate turnover of the individual product or products or service or services, for which cost records are required to be maintained under Rule 3 of the Rules, 2014, is Rs.25,00,00,000/- or more.

(c) It is contended that Sub-Rule (6) of Rule 6 of the Rules, 2014 mandates that every company covered under the Rules, 2014 shall, within 30 days from the date of receipt of a copy of the cost audit report, furnish to the Central Government such report along with full information and explanation on every reservation or qualification contained therein.



(ii) It is contended that after satisfying itself about the applicability of cost audit as per the extant provisions of Section 148 of the Act, 2013 and Rules made thereunder, the petitioner No.1 uploaded e-Form CRA-2 bearing SRN S3955727 dated 25.09.2015 on the Ministry of Corporate Affairs portal. The said form is required to be filed for intimating the appointment of a cost auditor to the Central Government to conduct cost audit and to submit report for the financial year 2014-2015. In the said form, petitioner No.1 declared, "Drugs and Pharmaceuticals", with CETA Heading 2941, and "Organic and Inorganic Chemicals etc." with CETA Heading 2808, as its products, for which a cost auditor was appointed to conduct the cost audit for the financial year 2014-2015.

(iii) The respondent contends that the applicability of the cost audit for the financial year 2014-2015 is to be determined with reference to the financial year 2013-2014 and not with reference to the financial year 2014-2015, as stated in the petition. As per the XBRL balance sheet and profit and loss account for the financial year 2013-2014 filed by the petitioner No.1, the gross revenue for the said year is Rs.56,89,00,000/-.



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The products are divided into natural extracts with revenue of Rs.42,70,00,000/- and formulations, with revenue of Rs.14,19,00,000/-. Further from the description of the products given in Annexure - E to the petition, it can be observed that most of the products for the financial year 2014-2015 can be grouped under the categories of drugs and pharmaceuticals or organic and inorganic chemicals.

(iv) It is contended that as the gross turnover of the company for the financial year 2013-2014 was Rs.56,89,00,000/- which is more than Rs.50,00,00,000/-, and almost the entire turnover relates to drugs and pharmaceuticals or organic and inorganic chemicals, it is evident that the cost audit was applicable to the company under Section 148 of the Act, 2013. Therefore, the petitioner No.1-company had appointed a cost auditor but failed to submit the cost audit report to the Ministry. It is contended that the Cost Audit Wing of the Ministry of Corporate Affairs, as part of its enforcement action, noticed that the petitioner No.1 - company had filed e-Form CRA-2 for appointment of a Cost Auditor, but had not filed e-Form CRA-4 as required under Section 148(6) of the



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Act, 2013 and Rules made thereunder. Therefore, it is contended that once the petitioner No.1 was satisfied itself about the applicability of cost audit in view of its business activities and had appointed a cost auditor in compliance with Section 148(2) of the Act, 2013 for conducting cost audit in respect of drugs and pharmaceuticals, it is a duty of the petitioner No.1 to file the cost audit report with the Central Government as per Section 148(6) of the Act, 2013 in e-Form CRA-4.

(v) It is contended that since the petitioner No.1 - company violated Section 148(6) of the Act, 2013, the Cost Audit Branch of the Ministry of Corporate Affairs issued a preliminary notice dated 04.01.2016 to the company, calling upon it to furnish an explanation for not filing the cost audit report (CAR-4) for the financial year 2014-2015. However, neither the petitioner No.1 nor its directors responded to the notice. Subsequently, the Cost Audit Branch issued a show-cause notice vide letter dated 29.08.2016, followed by a clarification dated 09.11.2016. However, the petitioner No.1 and its directors including the petitioners herein did not



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respond to the notices. Accordingly, the Cost Audit Branch forwarded the case to the respondent for initiating prosecution under Section 148(8)(a) of the Act, 2013 against the petitioner No.1-company and its officers in default before the appropriate Court.

(vi) It is contended that the petitioners have not disclosed about the filing of e-Form CRA-2 in the present petition and hence they have tried to mislead this Court. It is contended that till date, the cost audit report in e-Form CRA-4 is not filed for the financial year 2014-2015 and hence the offence is continues to subsist. It is contended that the petitioners have not specifically denied dealing with products, "Drugs and Pharmaceuticals" with CETA Heading - 2941 and "Organic and Inorganic Chemicals" with CETA Heading - 2808 during the preceding financial year 2013-2014.

(vii) It is contended that the petitioners have challenged the order of the Trial Court condoning the delay. It is contended that the respondent has explained the circumstances which prevented it from filing the complaint within the



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prescribed time. It is claimed that the respondent is a regulator for 1,43,373 companies and 19,057 LLPs registered in the State of Karnataka, of which, 94,182 are active companies and 16,710 are active LLPs.

(viii) It is claimed that with a staff strength of 17, the respondent had to attend to various requirements of companies and LLPs, including approval of a large number of e-Forms filed daily by corporate bodies, conducting enquiries, inspections and investigations, attending to investor complaints and sending reports on mergers and amalgamations etc.

(ix) It is claimed that due to the death of a staff member who was assisting the legal section, no experienced officials were available to file the complaints, including the complaint in question. It is claimed that the delay was due to a reason not attributable to the respondent but was on account of circumstances beyond its control. The respondent, therefore contends that the petitioners are not entitled to any indulgence to set at nought the prosecution launched against them.



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5. Smt. Anupama Hegde, the learned Central Government Counsel reiterated the above contentions and submitted that when once the petitioners have appointed a cost auditor, it meant that Section 148 of Act, 2013 and the Rules, 2014 are applicable and therefore, they were bound to file the cost audit report for the financial year 2014-15 based on the financial year 2013-14. Hence, she prayed that the petition be dismissed.

6. I have considered the submissions of learned counsel for the petitioners as well as learned Central Government counsel for respondent.

7. The allegation against the petitioner Nos.2 to 5 is that being the persons in charge of the affairs of the petitioner No.1, they failed to file the cost audit report for the financial year 2014-2015 and thereby had committed an offence under Section 148(6) of the Act, 2013 which is an offence punishable under Section 148(8) of the Act, 2013 in the manner provided under Sub-section (1) of Section 147 of the Act, 2013. The cost auditor is also liable to be punished under Sub-Sections (2) to



(4) of Section 147 of the Act, 2013, if he does not file his report.

8. In order to understand the above controversy, it is relevant to refer to Section 148 of the Act, 2013 which reads as follows:

148. Central Government to specify audit of items of cost in respect of certain companies.—

(1) Notwithstanding anything contained in this Chapter, the Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies:

Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.

(2) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section (1) and which



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have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.

(3) The audit under sub-section (2) shall be conducted by a (Cost Accountant) who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:

Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:

Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.

Explanation.—For the purposes of this sub-section, the expression "cost auditing standards" mean such standards as are issued by the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959 (23 of 1959), with the approval of the Central Government.

(4) An audit conducted under this section shall be in addition to the audit conducted under section 143.

(5) The qualifications, disqualifications, rights, duties and obligations applicable to auditors under



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this Chapter shall, so far as may be applicable, apply to a cost auditor appointed under this section and it shall be the duty of the company to give all assistance and facilities to the cost auditor appointed under this section for auditing the cost records of the company:

Provided that the report on the audit of cost records shall be submitted by the cost accountant to the Board of Directors of the company.

(6) A company shall within thirty days from the date of receipt of a copy of the cost audit report prepared in pursuance of a direction under sub-section (2) furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(7) If, after considering the cost audit report referred to under this section and the information and explanation furnished by the company under sub-section (6), the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(8) If any default is made in complying with the provisions of this section,—



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(a) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (1) of section 147;

(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections (2) to (4) of section 147."

9. It is not in dispute that the petitioner No.1 had appointed a cost auditor as prescribed under Section 148(3) of the Act, 2013. Rule 4 of the Rules, 2014 specifies that every company referred to in item No.(a) of Rule 3 of the Rules, 2014 shall get its cost records audited in accordance with the Rules, 2014, if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is Rs.50,00,00,000/- or more and the aggregate turnover of the individual product or products or services for which the cost records are required to be maintained under Rule 3 of the Rules, 2014 is Rs.25,00,00,000/- or more.

10. The petitioner No.1 apparently is a chemical manufacturing unit and the product-wise cumulative sales break-up furnished by the learned counsel for the petitioners



indicates that it is also engaged in the manufacture of drugs and pharmaceuticals and hence is covered under Rule 3 of the Rules, 2014. However, in the private complaint lodged by the respondent, there is no reference that the turnover of the company from all its products and services exceeded Rs.50,00,00,000/- or the aggregate turnover of any individual product or products or services exceeded Rs.25,00,00,000/-.

11. A mere appointment of a cost auditor by the petitioner No.1 does not mandate that a cost auditor report should be filed for that financial year if the company's turnover does not exceed Rs.50,00,00,000/- in total or Rs.25,00,00,000/- in aggregate of any individual product or service. The respondent was bound to place on record material to show that the gross revenue from all products and services of petitioner No.1 exceeded Rs.50,00,00,000/- and that the aggregate turnover of the individual product or products or services exceeded Rs.25,00,00,000/-. It is stated in the counter affidavit filed by the respondent that as per the balance sheet and profit and loss account for the year 2013 -2014 filed by the petitioner No.1, the gross revenue for that year was



Rs.56,89,00,000/- of which natural extracts generated revenue of Rs.42,70,00,000/- and formulations generated revenue of Rs.14,19,00,000/-.

12. It is contended by respondent that from the products given in Annexure - E to the petition most of the products can be grouped under the drugs or pharmaceuticals or organic or inorganic chemicals during the year financial year 2014-2015. However, a perusal of Annexure - E shows that many of the products are natural extracts, such as Krill Oil Blend Capsules, Garcinia Green tea, collagen from chicken, garlic extract, coconut freeze dried capsules, turmeric capsule, Omega-3 fish oil, vitamin tablets, probiotic capsule etc. which are not covered under Rule 3 of Rule, 2014. Therefore, the respondent must have considered the products manufactured by petitioner No.1 and ascertained whether they fall within the categories of organic chemicals or pharmaceuticals.

13. The initiation of the prosecution against the petitioners was on the premise that the petitioner No.1 had an overall annual turnover from all its products and services which



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exceeded Rs.50,00,00,000/- and that since a cost auditor was appointed by the petitioner No.1, it was necessary to submit the cost audit report. However, the respondent No.1 appears to have overlooked the requirement under Rules 3 and 4 of the Rules, 2014. Mere appointment of a cost auditor, by itself does not warrant that the petitioner No.1 should get its cost records audited and furnish the cost audit report. Therefore, unless there is clinching material to establish that the products manufactured by petitioner No.1 fell within the categories specified in Rule 3 of the Rules, 2014 and that the requirements under Rule 4 of the Rules were satisfied, prosecution for non-filing of the cost audit report could not be launched against the petitioners.

14. This apart, the punishment under Section 147(1) of the Act, 2013, is a fine which cannot be less than Rs.25,000/- but may extend to Rs.5,00,000/- in case of a company, and every officer of the company who is in default is punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than Rs.10,000/- or with both.



15. When an offence which attracts punishment of fine is pressed to be prosecuted, Section 468 of the Cr.P.C., prescribes a period of limitation within which the prosecution is required to be launched. The respondent was aware of the returns filed for the financial year 2013-2014 and the balance sheet showed an annual turnover of Rs.56,89,00,000/-. The respondent must have initiated proceedings soon after the cost auditor failed to file his report in the financial year 2014-15 for the alleged violation of Section 148(6) of the Act, 2013. However, the private complaint was lodged after nearly 823 days of delay. The commission of the offence was purportedly noticed by the Ministry of Corporate Affairs, which issued a show cause notice dated 29.08.2016 (Annexure - R3) to the petitioner No.1 calling upon it to show cause why action should not be taken under Section 148(8) of the Act, 2013 for not filing the cost audit report for the financial year ending 31.03.2015. However, the private complaint itself was filed on 12.10.2018. The reasons assigned for the delay in filing the complaint were shortage of staff in the legal section and death of the prosecutor on 15.05.2016. The Trial Court, held that



"only on the basis of oral assertion, it cannot be held that there was shortage of staff to such an extent that even process for initiating the criminal prosecution got affected." Having held that there were no sufficient reasons to condone the delay, the Trial Court proceeded to hold that Petitioner No.1 cannot be permitted to get away for non-compliance of the statutory requirements on account of the apathy of the officials.

16. The learned Magistrate should have been mindful of the fact that Courts are governed by law and not by emotions or personal opinion or bias. If the respondent was unable to initiate prosecution, within a reasonable time, the prosecution had to fail on that ground alone. The Ministry of Corporate Affairs, after having issued a show-cause notice in the year 2016, was not justified in initiating action in October, 2018. Therefore on this ground too, the prosecution of the petitioners is liable to be quashed.

17. Hence, the following



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ORDER

The petition is ***allowed***. The prosecution launched against the petitioners in C.C.No.138/2019 on the file of Special Court (Economic Offences), Bengaluru, for the offence under Section 148(6) of the Companies Act, 2013 which is punishable under Section 148(8) of the Companies Act, 2013 is quashed.

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

HJ
List No.: 1 Sl No.: 100