

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.OP.No.12391 of 2016
and
CrI.M.P.Nos.6387 & 6388 of 2016

Mehool Rasik Parekh ...Petitioner/Accused No.3
Vs.

The Deputy Registrar of Companies
Tamil Nadu having office at
Shastri Bhavan
26, Haddows Road
Chennai - 600 006 ...Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in E.O.C.C.No.299 of 2015 on the file of the Additional Chief Metropolitan Magistrate Court E.O.-1, Allikulam Moore Market, Chennai and quash the same.

For Petitioner : Mr. C. Sakthimanikandan
For Respondent : Mr. K. Ramanamoorthy
CGC

ORDER

This criminal original petition has been filed to call for the records in E.O.C.C.No.299 of 2015 on the file of the Additional Chief Metropolitan Magistrate E.O.- 1, Allikulam Moore Market, Chennai and quash the same.

2. The short points for consideration are as follows:

2.1 The Deputy Registrar of Companies, Tamil Nadu, has initiated a prosecution in E.O.C.C.No.299 of 2015 against three accused, challenging which, the petitioner, who has been arrayed as the third accused, is before this Court on the point that he had resigned his Directorship in Eduexel Infotainment Limited (A1 company).

2.2 It is the case of the prosecution that as per Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014, the first accused-company should have appointed one woman Director in its Board as on 01.04.2015, whereas, the first accused-company had not complied with this statutory requirement and therefore, they are liable along with the Directors of the company under Section 172 of the Companies

Act

3. The learned counsel for the petitioner submitted that when the petitioner came to know that the Company had not submitted the intimation to the ROC as required under Section 170 of the Act, he informed the ROC on 13.04.2015 by filing the Form No.DIR - 11 and therefore, he cannot be mulcted with criminal liability.

4. I am unable to countenance the submission, because the provisions under Section 168 of the Companies Act clearly state that a Director shall also forward a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed, which the petitioner has not done. But, the petitioner has sent his resignation to the ROC only on 13.04.2015, after getting the notice dated **01.07.2015,*** which was issued by the ROC. The Proviso under Section 168 of the Companies Act clearly states that even if a person has resigned from the Directorship, he will be liable for the offences committed during his tenure.

5. In view of the aforesaid legal position, this Court is not able to accept the submission of the learned counsel for the petitioner.

Accordingly, this criminal original petition is dismissed. Connected Miscellaneous Petitions are closed.

sms/cad

Sd/-
Asst.Registrar
dt.1.08.2016

Corrected as per order of
this Court dated 11.08.2016
made in Crl.OP.No.12391/2016

Sd/-
Asst.Registrar
dt.30.08.2016

/true copy/

Sub Asst. Registrar

To

- | | |
|---|---|
| <p>1. The Deputy Registrar of Companies
Tamil Nadu, Shastri Bhavan
26, Haddows Road, Chennai - 600 006</p> <p>2. The Additional Chief Metropolitan
Magistrate Court E.O.-1
Allikulam Moore Market, Chennai</p> <p>3. The Public Prosecutor, High Court, Chennai.</p> <p>+ 1 CC TO MR.K.RAMANAMOORTHY, ADVOCATE SR 39004
+ 1 cc to MR.C. SAKTHIMANIKANDAN, Advocate SR.45847</p> | <p>Substituted order
already despatched</p> |
|---|---|

KR/2/8/16
EU 31.08.16

Cr1.OP.No.12391 of 2016



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