

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2016

CORAM:

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

CrI.O.P. No.13846 of 2010 & M.P. Nos.1 & 2 of 2010

1 T.V. Padmanabhan

2 S. Kuppuswamy

3 T.B. Narayanaswamy Petitioners/A4 to A6

vs.

The Assistant Registrar of Companies
Shastri Bhavan
Chennai 600 006

Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records of E.O.C.C. No.496 of 2009 pending on the file of the Additional Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai and quash the said complaint with regard to the petitioners.

For petitioners Mr. S. Raghunathan

For respondent Mr. K. Ramanamoorthy

Central Government Standing Counsel
assisted by
Mr. B. Ramesh

ORDER

This Criminal Original Petition has been filed seeking to call for the records of E.O.C.C. No.496 of 2009 pending on the file of the Additional Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai and quash the said complaint with regard to the petitioners.

2 The Assistant Registrar of Companies initiated a prosecution in E.O.C.C. No.496 of 2009 before the Additional Chief Metropolitan Magistrate (Economic Offences-II), Egmore, Chennai, under Section 300(1) of the Companies Act, 1956, against 6 accused, challenging which, Padmanabhan (A4), Kuppuswamy (A5) and Narayanaswamy (A6) have preferred this Criminal Original Petition.

3 When the matter was taken up for hearing, Mr.S.Raghunathan, learned counsel for the petitioners submitted that Kuppusamy (A5) died on 16.03.2016 and produced a copy of

the death certificate.

4 In view of the above, the prosecution as against Kuppusamy (A5) abates.

5 It is the case of the prosecution that Ramesh (A3 in E.O.C.C. No.496 of 2009) was one of the Directors in Sporting Pastime Pvt. Ltd. and that during inspection by the authorities, they found certain irregularities in the maintenance of records, pursuant to which, a show cause notice dated 05.06.2007 was issued to Sporting Pastime India Ltd. seeking their response. Since reply given by Sporting Pastime India Ltd. was not satisfactory, the prosecution has been launched against the petitioners.

6 The allegation in the complaint refers to Question Nos.27 to 32 cited in show cause notice dated 05.06.2007, for the violation of which, the complaint has been laid for offences under the Companies Act.

7 Mr. S. Raghunathan, learned counsel for the petitioners/accused submitted that the petitioners/accused had resigned from Sporting Pastime India Ltd. (A1) as early as 18.08.2004, in support of which, he has produced a certified copy of Form No.32, which is not refuted by the learned Central Government Standing Counsel appearing for the Department. Mr. S. Raghunathan further contended that in view of the fact that the petitioners/accused had resigned as early as 18.08.2004, they cannot be mulcted with criminal liability for events that had taken place subsequent to their resignation.

8 The learned Central Government Standing Counsel refuted the allegations.

9 The allegation in the complaint is only as against Ramesh (A3), inasmuch as it is the case of the prosecution that Ramesh (A3) was a Director in Kasturi & Sons Ltd. and Sporting Pastime India Ltd. and that he had not disclosed his interest when the Board of Sporting Pastime India Ltd. passed a resolution on 06.04.2004 to avail loan of Rs.10 crores from Development Credit Bank Ltd. against corporate guarantee from Kasturi & Sons Ltd. for the said amount.

10 As regards these petitioners, it is not the case of the prosecution that they were also Directors in Kasturi & Sons Ltd. and that they had failed to disclose their interest in the loan transaction, as required under Section 299(1) of the Companies Act.

11 Thus, it is clear that there is no prima facie allegation as against the petitioners for the alleged offence.

Further, by order dated 05.10.2016, this Court has dismissed the quash application being CrI.O.P. No.10654 of 2011 filed by Ramesh (A3) holding that there are materials for the prosecution to proceed against him.

In view of the above, this Criminal Original Petition is allowed and the prosecution of the petitioners 1 and 3 in E.O.C.C. No.496 of 2009 on the file of the Additional Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai is hereby quashed. Connected M.Ps. are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

cad

To

- 1 The Assistant Registrar of Companies
Shastri Bhavan
Chennai 600 006
- 2 The Additional Chief Metropolitan Magistrate
E.O.-II, Egmore
Chennai
- 2a -do- Thro The Chief Metropolitan Magistrate
Egmore Chennai
- 3 The Public Prosecutor
Madras High Court
Chennai 600 104

+1 cc to M/s.S.Raghunathan Advocate sr 57417

CrI.O.P. No.13846 of 2010

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