

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM:

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

Crl.O.P.No.19898/2016 & C.M.P.Nos.9336 & 9337/2016

C.S.Venugopala Rao

Petitioner/6th Accused

vs.

M/s.Redington [India] Ltd.
rep.by Mr.M.Sundararajan
Senior Legal Executive
SPL Guindy House,
95, Mount Road, Guindy
Chennai 600 032

Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to CC.No.4320/2015, pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai - 600 015 and to quash the same as against the petitioner / 6th accused in CC.No.5320/2015.

For petitioner Ms. Gurmeet Kaur
 for M/s.R&P Partners

For respondent Mr.V.T.Narendran

ORDER

The above Criminal Original Petition has been filed by the petitioner / sixth accused to quash the proceedings in CC.No.5320/2015 pending on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai-15.

2 For the sake of convenience, the petitioner and the respondent are referred to as the sixth accused and complainant respectively.

3 The complainant initiated a prosecution against the accused numbering six, in CC.No.5320 of 2015 before the XVIII Metropolitan Magistrate Court, Saidapet, Chennai-15, challenging which, C.S.Venugopala Rao, the sixth accused is before this Court, on the ground that he had resigned from the 1st accused / Company as early as on 02.03.2009.

4 On 22.11.2016, this Court heard both sides and dictated orders in the open court dismissing this quash petition. However, when the order was submitted for my signature, I found that I had missed out an important point favourable to the petitioner. Therefore, I did not sign the order and instead, posted the matter today under the caption "for being spoken to".

5 Heard Ms. Gurmeet Kaur, learned counsel representing M/s. R & P Partners, learned counsel for the sixth accused and Mr. V.T. Narendran, learned counsel for the complainant.

6 The Supreme Court, in a catena of decisions, has held that if the High Court is satisfied that a Director had resigned from the company even before the transaction in question had arisen via impeachable records like Form 32, then, the High Court, in exercise of its powers under Section 482, Cr.P.C., can quash the prosecution.

7 In the instant case, the impugned cheque bearing no.007361 was issued by Indus Mobile Distribution Private Limited (A1) on 20.07.2015 in favour of the complainant. The complainant presented the cheque on the same day and the cheque was returned unpaid on the ground "signature not as per mandate". Hence, the complainant issued a statutory notice on 30.07.2015 to Indus Mobile Distribution Private Limited (A1) and to its Directors, including the petitioner herein, viz., C.S. Venugopala Rao. After receipt of the statutory notice, a reply notice dated 14.08.2015 was issued on behalf of Parthasarathy, Sandeep Reddy and C.S. Venugopala Rao, wherein, it is stated that C.S. Venugopala Rao had resigned from the Directorship of the company as early as 02.03.2009. Form 32 that is submitted by the petitioner in the typed set of papers clearly shows that the sixth accused has resigned on or before 02.03.2009.

8 Mr. Narendran, learned counsel for the complainant submitted that it is not the date of resignation that is relevant, but, the date on which, Form 32 was filed with the Registrar of Companies.

9 In reply, the learned counsel for the petitioner produced records to show that Form 32 was filed with the Registrar of Companies on 18.04.2009.

10 On the instructions of this Court, Mr. B. Ramesh, learned Company Prosecutor appearing for the Registrar of Companies, submitted the official GAR-7 challan which clearly shows that Form 32 was filed on 18.04.2009 vide challan no.A60129418.

11 Thus, it is crystal clear that the resignation of the sixth accused was intimated to the Registrar of Companies as early as 18.04.2009 and the resignation had taken effect from 02.03.2009, which fact was also brought to the notice of the complainant in the reply notice dated 14.08.2015. From the above, it is evident that the sixth accused was not a Director when the transaction in question took place in the year 2015.

In view of the above, the prosecution against the sixth accused in C.C. No.5320 of 2015 on the file of the XVIII Metropolitan Magistrate Court, Saidapet is hereby quashed and this Criminal Original Petition is allowed. Connected Miscellaneous Petitions are closed.

30.11.2016

ap/cad

To

- 1 The XVIII Metropolitan Magistrate
Saidapet, Chennai-15
2. The Public Prosecutor
High Court, Madras

P.N.PRAKASH. J.

ap/cad

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