

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.25929 of 2009

1 R. Ramesh
2 T.V. Padmanabhan
3 S. Kuppuswamy
4 T.B. Narayanaswamy vs. Petitioners/A3 to A6

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.490 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.490 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 against Sporting Pastime India Ltd. (A1) and 5 of its Directors for an offence under Section 300(1) of the Companies Act, 1956 in E.O.C.C. No.490 of 2009 before the Additional Chief Metropolitan Magistrate (Economic Offences-II), Egmore, Chennai, challenging which, Ramesh (A3), Padmanabhan

(A4), Kuppuswamy (A5) and Narayanaswamy (A6) have preferred this quash 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 Heard both sides.

6 The specific allegation in the complaint is as follows:
"5. As 2 Directors cannot constitute the Board, the resolutions passed by the Board with effect from 30.09.2006 are null and void. The Company has violated the provisions of Sec.300(1) of the Act which is punishable under Section 300(4) of the Act."

7 The learned counsel for the petitioners/accused contended that the petitioners/accused had resigned from Sporting Pastime India Ltd. way back on 18.08.2004 itself and in support of that contention, he produced Form 32 which is not refuted by the learned Central Government Standing Counsel appearing for the Department.

8 The allegation in the complaint is only with regard to the Board Meeting that is said to have been held on 30.09.2006, whereas, unimpeachable records produced by the petitioners/accused show that they had resigned from Sporting Pastime India Ltd. on 18.08.2004 itself.

In view of the above, the prosecution of the petitioners 1,2 and 4 in E.O.C.C. No.490 of 2009 on the file of the Additional Chief Metropolitan Magistrate Court, E.O.-II, Egmore, Chennai is hereby quashed and this Criminal Original Petition is allowed.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

cad

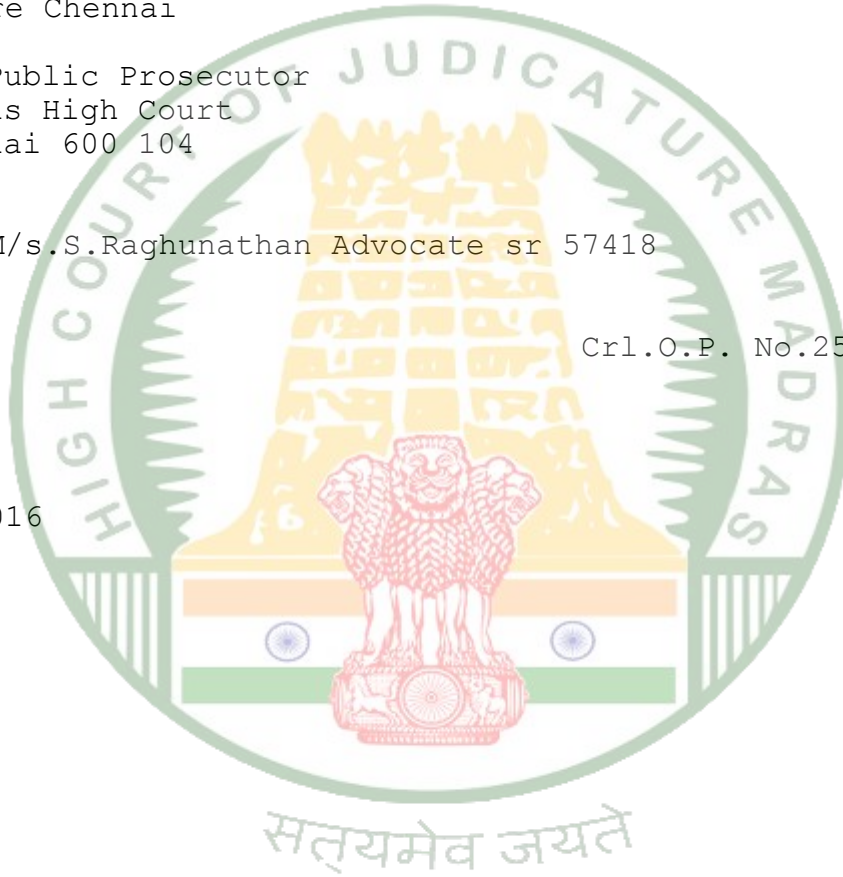
To

- 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 Cheif Metropolitan Magistrate
Egmore Chennai
- 3 The Public Prosecutor
Madras High Court
Chennai 600 104

+1 cc to M/s.S.Raghunathan Advocate sr 57418

Cr1.O.P. No.25929 of 2009

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