

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21..10..2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.21862 of 2016
and CrI.M.P.Nos.10138 & 10139 of 2016

Mr.Bernard Robert Hereford

... Petitioner

-Versus-

The Deputy Registrar of Companies,
Tamil Nadu,
Chennai,
Having Office at II Floor,
Shastri Bhavan, 26 Haddows Road,
Nungambakkam, Chennai 600 006.

... Respondent

Prayer: This petition is filed under Section 482 Cr.P.C. praying to call for the entire records relating to the case in EOCC No.207 of 2013 on the file of the learned Additional Chief Metropolitan Magistrate (Economic Offices-I), Egmore, Chennai and to quash the said case insofar as the petitioner is concerned.

For Petitioner : Mr.M.Mohammed Rafi

For Respondent : Mr.B.Ramesh, Spl. P.P.
(Companies)

ORDER

Seeking to quash the case in EOCC No.207 of 2013 on the file of the learned Additional Chief Metropolitan Magistrate (Economic Offices-I), Egmore, Chennai, the petitioner, who is A4 in the said case, has come up with this original petition.

2. The Deputy Registrar of Companies has launched a prosecution under Section 210 of The Companies Act in EOCC No.207 of 2013 before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, against six persons for an offence under Section 210(5) of the Companies Act, 1956. Challenging the same the petitioner is before this court.

3. The allegations in the complaint is as follows:-

"That the company was inspected under Section 209A of the Act by an officer empowered by the Central Government in this behalf. During the course of the Inspection, the Inspecting officer had noticed "from the Minutes of the Committee of Management and AGM that the audited statement of Account along with his report for the financial year ending 31.03.2010 were presented to the Committee and were approved and subsequently laid before the AGM as detailed below:-

Sl.N o.	Financial year from which Accounts were presented	Date of Board Meeting approved	Date of AGM where placed for adoption as per Minutes
4	31.03.2010	28.09.2010 (Item No.23)	28.09.2010

As per Section 210 of the Act, at every Annual General Meeting the Board of Directors should file the Balance Sheet as at the end of the period specified in Sub section 3 and the P&L Account or Income & Expenditure Account which relate to the period beginning with the date immediately after the period for which the Account was last submitted and ending with a day which shall not precede the day of the meeting by more than 6months. Whereas the Balance Sheet and Income and Expenditure account for the period ending 31.03.2010 were laid after the period ending by more than 6 months in the AGM held on 28.09.2010. Hence, the provisions of Section 210 of the Act have been contravened."

4. It is not in dispute that A4 became a Director only on 26.04.2010 and he had resigned on 11.02.2014 and that he was not the Director of the Church of South India Trust Association as on 31.03.2010. Even according to the prosecution, the Annual General Meeting of the Board of Directors should be conducted with 6 months from 31.03.2010. Admittedly, the meeting has been conducted on 28.09.2010 which was within 6 months. Therefore, the prosecution against the petitioner is liable to be quashed.

5. In view of the above, this criminal original petition is allowed and the prosecution in EOCC No.207 of 2013 on the file of the learned Additional Chief Metropolitan Magistrate (Economic Offences-I), Egmore, Chennai is quashed as against the petitioner/A4 alone. Consequently, connected MP are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmk

To

- 1.The Additional Chief Metropolitan Magistrate (Economic Offences), Egmore, Chennai.
2. -do- Thro' The Chief Metropolitan Magistrate, (Economic Offences)
- 3.The Deputy Registrar of Companies, Tamil Nadu, Chennai, II Floor, Shastri Bhavan, 26 Haddows Road, Nungambakkam, Chennai 600 006.
- 4.The Special Public Prosecutor (Companies), High Court, Madras.

CrI.O.P.No.21862 of 2016

GJ(CO)
EU 23.11.16

सत्यमेव जयते
WEB COPY