

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM:

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

CrI. O.P. No.21864 of 2016
and
CrI.M.P. Nos.10142 & 10143 of 2016

Bernard Robert Hereford Petitioner/ Accused -5

VS.

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

Respondent/ Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records in E.O.C.C. No.214 of 2013 on the file of the Additional Chief Metropolitan magistrate (Economic Offences - I), Egmore, Chennai and quash the same as far as the petitioner is concerned.

For petitioner Mr. M. Mohammed Rafi

For respondent Mr. B. Ramesh
Company Prosecutor

ORDER

The Deputy Registrar of Companies launched a prosecution under Section 209(1) of the Companies Act in E.O.C.C. No.214 of 2013 before the Additional Chief Metropolitan Magistrate (Economic Offences-I), Egmore, Chennai against seven persons, challenging which, Bernard Robert Hereford (A5) is before this Court.

3. The crux of the allegation 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 Inspection officer had noticed from the "Auditors' report under the Head Immovable properties held in Trust, the Auditors have not verified the title deeds in respect of those properties. No value has been assigned to the immovable properties of the Trust as the properties are transferred by various missionaries as no value depending upon the geographical location and are managed and administered by the respective dioceses. The rental income from properties let and sale proceeds, if any, of immovable properties are received directly by the units and sub units and are accounted by them or by the beneficiaries directly.

The company has also shown a sum of Rs.59.06 crores in the Balance Sheet as on 31.03.2010 under the head Sundry funds and investments held by individual dioceses and institutions.

The investments held by other units directly are shown in the Balance Sheets for the said years but the income earned out of these investments are not included and not considered as revenue of the company but they are deducted as amount paid or payable to the beneficiaries without any monitoring mechanism prescribed by the company as to supervise the end-use of money. As per the requirements of the provisions of Section 209(1) of the Act, every company shall keep at its Registered Office, proper books of account with respect to all sums of money received and expended by the company and the matter in respect of which the receipt and expenditure took place including the assets and liabilities of the company but no books of accounts and details relating to fixed assets/immovable properties, secured loan, sale of property, sale consideration, purchase of property, receipt of foreign contribution, income and expenditure of other dioceses, units and sub-units available at the registered office of the company. As the company has failed to maintain such proper books of account, the provisions of Section 209(1) of the Act have been contravened."

(emphasis

supplied).

4. Admittedly, in this case, the petitioner (A5) became a Director of the Church of South India Trust Association only on 26.04.2010 and he had resigned from the Directorship on 11.02.2014 and he was not a Director as on 31.03.2010.

In view of the above, this Criminal Original Petition is allowed and the prosecution in E.O.C.C. No.214 of 2013 on the file of the Additional Chief Metropolitan Magistrate (Economic Offences-I), Egmore, Chennai is quashed as against the petitioner/A5 alone. Connected Crl. M.Ps. are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Deputy Registrar of Companies
Tamil Nadu, Chennai
II Floor, Shastri Bhavan
26, Haddows Road
Nungambakkam
Chennai 600 006

2. The Additional Chief Metropolitan Magistrate (E.OI)
Egmore, Chennai

- 3 The Public Prosecutor
High Court of Madras
Chennai - 600 104

Crl.O.P. No.21864 of 2016

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