IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM:

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

Crl. O.P. No.21865 of 2016
and
Crl.M.P. Nos.10144 & 10145 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.218 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 211 of the Companies Act in E.O.C.C. No.218 of 2013 before the Additional Chief Metropolitan Magistrate (Economic Offences-I), Egmore, Chennai against eight persons, challenging which, Bernard Robert Hereford (A5) is before this Court.

3. The crux of the allegation in the complaint is as follows:-

> "However, it is observed from the Balance Sheet as at 31.03.2010 under the head Annexure to the Accountant's Report that the state of affairs and the income expenditure accounts of the units and sub units are not considered for the purpose of preparation of accounts and your books of accounts also do not include the details of those movable properties and immovable properties. Further, the trust has taken a different stand in its IT proceedings that it should be treated as a single unit inclusive of the units for the purpose of taxation only so as to claim exemption under the provisions of the Income Tax Act. Moreover, it is also informed during the course of inspection that the hospitals, health centres, educational institutions, boarding homes, hostels, professional training schools and other charitable institutions are independent of its own and they are autonomous and they do not come under the purview of the company. Further each of the Diocese are independent and are autonomous and each of the Diocese is being managed and controlled by its own Committee. CSITA as a company has nothing to do with the internal matters of the synod and has no role to play in the Diocesan Executive Committee meeting. No details of 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 or sub-units reflect in the Balance Sheet and books of accounts of the company."
>
> (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.218 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.O.I)
Egmore, Chennai

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

Crl.O.P. No.21865 of 2016

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