

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

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

CrI.O.P. No.18854 of 2010 & M.P. No.1 of 2010

1 R. Ramesh
2 T.V. Padmanabhan
3 S. Kuppuswamy
4 T.B. Narayanaswamy Petitioners

vs.

The Assistant Registrar Companies
Shastri Bhavan
Chennai 600 006 ... Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records of E.O.C.C. No.501 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.501 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 in E.O.C.C. No.501 of 2009 before the Additional Chief Metropolitan Magistrate (Economic Offences-II), Egmore, Chennai, under Section 292 A (1) of the Companies Act, 1956, against Sporting Pastime India Ltd. and 11 of its Directors, challenging which Ramesh (A6), Padmanabhan (A7), Kuppuswamy (A8)

and Narayanaswamy (A9) have preferred this Criminal Original Petition.

3 Today, when the matter was taken up for hearing, Mr.S.Raghunathan, learned counsel for the petitioners submitted that Kuppuswamy (A8) died on 16.03.2016 and produced a copy of the death certificate.

4 In view of the above, the prosecution as against Kuppuswamy (A8) abates.

5 The gravamen of the allegation in the complaint is as follows:

"3. That the company was inspected under Section 237(b) of the Act by an officer authorised by the Central Government. During the course of the inspection of the records of the company, the inspecting officer had noticed that the company's paid up share capital was raised from Rs.3 crores to Rs.27 crores with effect from 01.08.2004. As per the provisions of Section 292 A of the Act, if a company's paid up share capital is Rs.5 crores and above, it must have Audit Committee. As the Company/Board has not constituted an Audit Committee, the provisions of Sec. 292 A(1) of the Act, have been contravened for the years from 01.04.2005 to 31.03.2006. Hence, the company/its officers have violated the provisions of Section 292 A(1) of the Act which is punishable under Section 292 A(11) of the Act."

6 The learned counsel for the petitioners submitted that the petitioners had resigned from Sporting Pastime India Ltd. (A1) as early as 18.08.2004 and the contravention is for the period from 01.04.2005 to 31.03.2006, during which time, the petitioners were not Directors of the first accused company. In support of this contention, the learned counsel for the petitioners produced Form 32 which fortifies his stand that the petitioners had resigned on 18.08.2004.

In view of the above, the prosecution against the petitioners in E.O.C.C. No.501 of 2009 pending on the file of

the Additional Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai is quashed and this Criminal Original Petition is allowed. Connected M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1 The Assistant Registrar Companies
Shastri Bhavan
Chennai 600 006

2 The Additional Chief Metropolitan Magistrate
E.O.-II, Egmore, Chennai

3 The Public Prosecutor
Madras High Court, Chennai 600 104

+1cc to Mr.S.Raghunathan, Advocate Sr.59128

Cr1.O.P. No.18854 of 2010

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srg 25/10/2016

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