

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.Nos.9456 & 9457 of 2011

and

MP.Nos.1 & 1 of 2011

1. Philip Harting

C/o.M/s.Harting India P.Ltd.,
D 4th Floor, Doshi Towers,
156, Poonamallee High Road,
Chennai - 600 010.

2. Dietmar Harting

C/o.M/s.Harting India P.Ltd.,
D 4th Floor, Doshi Towers,
156, Poonamallee High Road,
Chennai - 600 010.

3. N.Suresh

4.G.Kalyan Jhabakh

...Petitioners in both Crl.OPs/
Accused

Vs.

The Deputy Registrar of Companies,
Having registered office at
Shastri Bhavan,
Chennai - 600 004.

...Respondent in bothCrl.Ops/
Complainant

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the complaint in C.C.Nos.38 & 39 of 2011 pending on the file of the Additional Chief Metropolitan Magistrate (Economic Offence II), Egmore, Chennai, and quash the same.

For Petitioners : Mr.R.Ram Kumar
for M/s.T.Justin

For Respondent : M/s.S.Meenakumari
SCGSC

O R D E R

These petitions have been filed by the accused Nos.1 to 4 to quash the proceedings in C.C.Nos.38 & 39 of 2011 on the file of the Additional Chief Metropolitan Magistrate (Economic Offence II), Egmore, Chennai.

2. The learned counsel for the petitioners has submitted that the respondent herein has filed a complaint to punish the petitioners herein under Section 211 (7) of the Companies Act 1956(i.e) in respect of the Balance sheet signed by the petitioners on 06.10.2006 on behalf of the Company M/s-Harting India Private Limited. She further submitted that the aforesaid offence is a compoundable one and hence, the matter has been compounded and as per the order passed by the Company Law Board, Chennai Bench, the Company has paid a sum of Rs.24,000/- (Rupees Twenty Four Thousand Only) on 25.03.2011 and the Company Law Board has directed the Registrar of Company (respondent herein) to take appropriate action. She further submitted that as per Section 621-A (3) (d), the respondent herein has to file a memo before the trial Court stating that the matter has been compounded, but, the respondent has not filed a memo before the trial Court and hence she requests to direct the respondent to file a memo before the trial Court stating that the matter has been compounded.

3. The learned counsel for the respondent has fairly conceded that the matter has been compounded and as per the aforesaid provisions of law, the respondent has to file a memo before the trial Court stating that the matter has been compounded.

4. Section 621-A (3) (d) reads as follows:-

'' (d) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the Registrar in writing, to the notice of the Court in which the prosecution is pending and on such notice of the Composition of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged''.

5. From the reading of the aforesaid provision of law, it is clear that if the offence is compounded, the Registrar shall in writing bring to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged. Therefore, the respondent herein is directed to bring to the notice of the trial Court as to the composition of the offence by filing a memo within a period of three weeks from the date of receipt of a copy of this order. After filing of such a memo, the trial Court has to dispose of the case in accordance with the aforesaid provisions of law.

6. With the aforesaid directions, these Criminal Original Petitions are disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

msrm

To

1. The Additional Chief Metropolitan Magistrate,
(Economic Offence II),
Egmore chennai,
2. The Deputy Registrar of Companies,
Shastri Bhavan,
Chennai - 600 004.
3. The Public Prosecutor
High Court of Madras.

Copy To:
The Section Officer,
High Court, Chennai - 104.

+1cc to Mr.S.Meena Kumari, Advocate, S.R.No.68618
+2cc to Mr.J.B.Abithabanu, Advocate, S.R.No.68667(08/10/2018)

सत्यमेव जयते

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and MP.Nos.1 & 1 of 2011

PVS (CO)

rrs 05/10/2018

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