

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2018

CORAM:

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

CRL.O.P.NOS.5631 TO 5651 AND 5653 TO 5675 OF 2018(44 PETITIONS)
AND
CONNECTED CRL.M.PS.

- 1 Madras Flying Club Ltd.
Meenambakkam Airport
Chennai - 27
- 2 Jacob Selvaraj
- 3 Kasiviswanathan Umashankar
- 4 Ratnam Paul Peterson Paulebenezer
- 5 Mahendrakumar Nagindas Jogani
- 6 Dokku Shaik Ameer Basha
- 7 Dilli Reddy Balaraman
- 8 Kopanna Perumal Paramananth

.. Petitioners all CRL.OPS/Accused

vs.

The Deputy Registrar of Companies
Tamil Nadu,
having office at Shastri Bhavan
26 Haddows Road, Chennai-6

...Respondent in all Crl.OPs./Complainant

Prayer in Crl.OPs:-

Criminal Original Petition filed under Section 482 CR.P.C seeking to call for the records and quash the E.O.C.C.Nos.544,543,542,541,540,539,538,537,536,535,534,533,532, 531,530,529,528,527,526,568,569,565,566,567,562,563,564,560,561, 559,558,557,556,555,554,553,552,551,550,549,548,547,546 & 545 of 2017 respectively on the file of the Additional chief Metropolitan Magistrate, Economic offences Court I, Egmore, Chennai-8 and to Pass such further or the other orders.

For petitioner in
all Crl.OPs : Mr. V. Raja Saravanan

For respondent in : Mr. B. Ramesh
all Crl.OPs Company Prosecutor

COMMON ORDER

These 44 Criminal Original Petitions have been preferred by Madras Flying Club Ltd. and 7 others challenging the 44 prosecutions on the file of the Additional Chief Metropolitan Magistrate, Economic Offences Court No.I, Egmore, Chennai - 8.

2 Apart from the above batch of 44 cases, there is yet another Criminal Original Petition, viz., Crl.O.P.5652 of 2018 preferred by Madras Flying Club Ltd., challenging the prosecution in E.O.C.C. No.570 of 2017 on the file of the Additional Chief Metropolitan Magistrate, Economic Offences Court No.I, Egmore, Chennai - 8, wherein, one Rajkumar has filed an application in Crl.M.P. No. 4229 of 2018 to implead himself as the second respondent.

3 This Court heard the instant batch of 44 Criminal Original Petitions and also Crl.O.P. No.5652 of 2018 together inasmuch as the issue in the batch of cases and also the single case is one and the same.

4 This Court, vide separate order passed today, has allowed the aforesaid impleading application and extended the order of interim stay already granted until further orders and directed the posting of the said case in usual course.

5 Admittedly, Madras Flying Club Ltd. is a company incorporated under the Companies Act, 1956 and continues to be a company under the Companies Act, 2013. The Registrar of Companies filed 44 complaints in E.O.C.C. Nos.526 to 569 of 2017 before the Additional Chief Metropolitan Magistrate, Economic Offences Court No.I, Egmore, Chennai, on the allegations that Madras Flying Club Ltd. had not submitted its annual returns and balance sheet and not conducted the Annual General Body Meeting from 2006 to 2016. Summonses were issued to the accused shown in the private complaints. Thereafter, the Ministry of Company Affairs announced a Condonation of Delay Scheme, 2018 (for short "the Scheme") on 29.12.2017, under which, the said defaulting companies were required to file annual returns and balance sheet before 31.03.2018 and power was given to the Registrar of Companies to accept the same and condone the delay in filing the same.

6 Madras Flying Club Ltd. submitted the necessary balance sheet and annual returns along with an application for condonation of delay. While the condonation of delay application was pending, Madras Flying Club Ltd. filed the present applications to quash the prosecutions launched against them.

7 As stated above, during the pendency of these quash applications Rajkumar, claiming himself to be the Secretary of Madras Flying Club Ltd., has filed impleading application opposing the relief sought in Crl. O.P. No.5652 of 2018 filed by Madras Flying Club Ltd. to quash the prosecution.

8 Heard Mr. Raja Saravanan, learned counsel for Madras Flying Club Ltd., Mr. B. Ramesh, learned Company Prosecutor for the Deputy Registrar of Companies and Mr. Rajkumar, party-in-person.

9 The learned counsel for Madras Flying Club Ltd. submitted that Rajkumar was an ex-employee of the Club and he was terminated from service in 2014 and two FIRs were registered against him in Cr. No.304 of 2015 by S-2 Airport Police Station for the offences under Sections 379 and 506(2) IPC and in Cr. No.487 of 2017 by S-3 Meenambakkam Police Station for the offence under Section 379 IPC.

10 However, according to Mr. Rajkumar, party-in-person, both the said FIRs registered against him have been closed. It is the further case of Mr. Rajkumar, party-in-person that Madras Flying Club Ltd. has submitted false documents to the Registrar of Companies and has availed of the benefit of the Scheme and therefore, the prosecution should proceed against them.

11 This Court gave its anxious consideration to the rival submissions.

12 Mr. Ramesh, learned Company Prosecutor appearing for the Deputy Registrar of Companies submitted that Madras Flying Club Ltd. submitted necessary application along with documents for availing the benefit of the Scheme and the Registrar of Companies has also accepted the said condonation of delay application and by order dated 29.04.2018, the delay has been condoned. Mr. Ramesh also brought to the notice of this Court, paragraph no.6 of the Scheme which reads as under:

"6. The Registrar concerned shall withdraw the prosecution(s) pending if any before the concerned Court(s) for all documents filed under the scheme. However, this scheme is without prejudice to action under Section 167(2) of the Act or civil and criminal liabilities, if any, of such disqualified Directors during the period they remained disqualified."

13 From a reading of paragraph no.6 of the Scheme extracted above, it is crystal clear that if once delay is condoned, then, the Registrar of Companies should file the necessary application before the Magistrate to withdraw the complaint.

14 Mr. Ramesh, learned Company Prosecutor further submitted that Mr. Rajkumar, party-in-person submitted a petition before the Registrar of Companies alleging that the documents submitted by Madras Flying Club Ltd. were false ones.

15 In the opinion of this Court, it is open to the Registrar of Companies to conduct an enquiry in order to ascertain as to whether Madras Flying Club Ltd. had submitted proper documents to them. However, it is worth pointing out that a person like Mr. Rajkumar cannot be permitted to intervene in every aspect of administrative actions and derail the very administrative process. It is common knowledge that every action of an authority is assailed on some ground or the other by disgruntled elements. An administrative authority cannot be persuaded by complaints of such disgruntled elements. However, if an administrative authority like the Registrar of Companies is convinced that those documents ought not to have been accepted, it is always open to them to reject the same and give a fresh opportunity to Madras Flying Club Ltd. to submit acceptable documents.

16 It is the contention of Madras Flying Club that while Rajkumar was working as its employee, he had stolen most of the documents, which is, of course, denied by Mr. Rajkumar.

17 Be that as it may, these quash applications are closed with a direction to the Registrar of Companies to take a decision within a period of two months from the date of receipt of a copy of this order and file an application for withdrawal of the prosecution in terms of Paragraph no.6 of the Scheme in the event of coming to a conclusion that the documents submitted by Madras Flying Club are not suspect.

18 The accused are directed to appear before the Trial Court, within a period of two weeks from the date of receipt of a copy of this order and execute a bond for Rs.5,000/- each under Section 88 Cr.P.C. without sureties and thereafter, their presence before the Trial Court is dispensed with, until the Registrar of Companies files a report under Paragraph no.6 of the Scheme. The accused are directed to engage an advocate on special vakalat so that the advocate can receive notice of hearing from the Trial Court and no fresh summons need be served on the accused.

With the above directions, these Criminal Original Petitions stand disposed of. Connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Deputy Registrar of Companies Tamil Nadu
"Shastri Bhavan", 26 Haddows Road
Chennai - 6
- 2 The Additional Chief Metropolitan Magistrate Court
(Economic Offences Court, No.1)
Egmore, Chennai - 600 008

Copy To

3. The Chief Metropolitan Magistrate,
Egmore, Chennai-8
4. The Public Prosecutor
Madras High Court
Chennai 600 104

+4cc to Mr.V.Raja Saravanan, Advocate, S.R.No.45789

CRL.O.P.NOS.5631 TO 5651 AND 5653
TO 5675 OF 2018(44 PETITIONS)

RV(CO)
GSP(27/07/2018)

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