

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.20972 of 2018

1. R.N. Kasthuri
S/o R.V. Narayanasamy
Managing Director
M/s. Appasamy Ocular Devices Pvt Ltd.
7-B, New Natrajapuram, Water Tank
Arumbakkam, Chennai - 106.
 2. A. Ramamoorthy,
Whole Time Director
M/s. Appasamy Ocular Devices Pvt Ltd.
No.6, New Natrajapuram, Water Tank
Arumbakkam
Chennai - 106
- ... Petitioners

Vs.

The Registrar of Companies
Shastri Bhawn, II Floor,
Block V and VI,
No.26, Haddows Road,
Chennai - 6.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in E.O.C.C. No.113 of 2018 on the file of the Additional Chief Metropolitan Magistrate, (Economic Offences-I) Egmore, Chennai and direct the said Magistrate to cancel the NBW issued against the petitioners on 18.06.2018 without insisting upon their personal appearance.

For petitioners : Mr.A.M.Rahamath Ali

For respondent : Mr.B.Ramesh
Company Prosecutor

O R D E R

This Criminal Original Petition has been preferred seeking to call for the records in E.O.C.C. No.113 of 2018 on the file of the Additional Chief Metropolitan Magistrate, (Economic Offences-I) Egmore, Chennai and direct the said Magistrate to cancel the non-bailable warrant issued against the petitioners

on 18.06.2018 without insisting upon their personal appearance.

2 The petitioners are the accused in E.O.C.C. No.113 of 2018 for the offence under Section 233-B of the Companies Act, 1956 for non-filing of cost audit report. Though summons sent by post was received by their office, they did not appear before the Trial Court. On the first hearing date, the Trial Court had permitted them to file a petition under Section 317 Cr.P.C.. But, on the subsequent date, when both the petitioners were not present, non-bailable warrant was issued. Therefore, the petitioners are before this Court with the above prayer.

3 Heard Mr.A.M.Rahamath Ali, learned counsel for the petitioners and Mr. B. Ramesh, learned Company Prosecutor who was specifically directed to be present before this Court.

4 The learned Company Prosecutor submitted that the offence under Section 233-B of the Companies Act, is punishable with a fine or imprisonment.

5 However, Mr.A.M.Rahamath Ali, learned counsel for the petitioners submitted that the first petitioner is not in India and therefore, his presence before the Trial Court may be dispensed with.

6 In the opinion of this Court, such an order cannot be passed as that will become a bad precedent for others to follow suit.

7 Therefore, the learned counsel for the petitioners sought permission of this Court to withdraw the case as regards the first petitioner and he has also made an endorsement to that effect.

8 In view of the above submission and endorsement made by the learned counsel for the petitioners, this petition is dismissed as withdrawn with regard to the first petitioner with liberty to him to work out his remedy in the manner known to law, after he comes to India.

9 As regards the second petitioner, he is directed to surrender before the Trial Court within a period of two weeks from the date of receipt of a copy of this order and on such appearance, he shall file a petition under Section 436 Cr.P.C. seeking bail and on he filing such a petition, the Trial Court is directed to release him on bail on the same day on condition that he shall execute a bond for Rs.5,000/- with one surety. The warrant shall be recalled. Permission is granted to the second petitioner to file an application under Section 205 Cr.P.C. and the same may be considered, taking into account, the nature of

the offence and the age of the second petitioner.

With the above directions, this Criminal Original Petition stands disposed of.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

gsi/cad

To

1. The Registrar of Companies
Shastri Bhawan, II Floor,
Block V and VI,
No.26 Haddows Road,
Chennai - 6.
2. The Additional Chief Metropolitan
Magistrate(Economic Offences-I)
Egmore, Chennai.

+1cc to Mr.H.Rajasekar, Advocate SR.No.60242

CRL.O.P.No.20972 of 2018

GMV (18/09/2018)

सत्यमेव जयते
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