

THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 6553 of 2011

ORDER :

This Criminal Petition is filed under Section 482 of Criminal Procedure Code, seeking to quash the proceedings in CC No. 99 of 2006 on the file of III Additional Judicial First Class Magistrate, Kakinada.

2. The petitioner-Govindlal Bajaj, is one of the Directors of Asra India Savings and Investments Limited. He worked as a Director for a short period and resigned from the company voluntarily on 16.08.1995. He was not re-elected as Director thereafter. As he had retired from the Company as Director, the same was brought to the notice of the Registrar of Companies, Andhra Pradesh, by the company i.e., Asra India Savings and Investments Limited by filing Form – 32, wherein it is clearly mentioned that the petitioner ceased to be director with effect from 16.08.1995. The photocopy of Form No. 32 is filed to show that the petitioner ceased to be a director to the said company from 1995 onwards.

3. The case of the prosecution is that Asra India Savings and Investments Limited has started its Branch office at Samalkot in the year 1998 and the petitioner cannot be held responsible for the actions of the company, which was established in Samalkota in the year 1998, as he resigned from the post of Directorship in the year 1995. It is the case of the petitioner that the petitioner was not In-charge of the Company in the year 1998-99, as he had retired in the year 1995 itself by submitting his resignation. Therefore, the

petitioner is not liable for the prosecution as ordered in CC No. 99/2006 on the file of III Additional First Class Magistrate, Kakinada, East Godavari District.

4. Heard the learned counsel for the petitioner and learned Public Prosecutor.

5. The learned counsel for the petitioner, placing reliance on the judgment of this Court, rendered in the case of Criminal Petition No. 7885, 7949, 7950 and 7951 of 2007 dated 8th July, 2010, submitted that the petitioner-Govindlal Bajaj has filed similar petitions, earlier, before this Court to quash the proceedings in CC No.140/2004 on the file of VIII Metropolitan Magistrate, Gajuwaka, Visakhapatnam District and this Court quashed the proceedings against the petitioner. It is submitted that in the said Criminal Petition, the Petitioner was prosecuted for non payment of maturity amounts during the year 2002 and 2003, which were collected from several investors during the years 1998 and 1999. In the said petition, the Petitioner's contention was that he ceased to be a Director of Asra India Savings and Investments Ltd., in the year 1995 itself, before starting of branches at Gajuwaka and Visakhapatnam in the year 1996 and before collection of deposit from the victims, during the year 1998 and 1999 and therefore, he cannot be prosecuted for non payment of the matured deposits during the years 2002 and 2003. This Court has considered the facts of the said petition and held that the petitioner No.2 produced a copy of Form No.32, issued by the Registrar of Companies, Hyderabad, related to Asra India Savings and Investments Limited, which shows that the petitioner No. A-2

by name Govindlal Bajaj, resigned from Directorship of the said Company on 16.08.1995 and the said information was received in the office of Registrar of Companies, Hyderabad on 05.03.1998 and in view of the same, the prosecution of A-2 was held to be unsustainable under law.

6. In the present case also the petitioner is Govindlal Bajaj and the company is also the same. But the Branch opened in the present case was on Samalkot in the year 1998. Admittedly, the petitioner has resigned from the company as Director in the year 1995 itself and the said information was received by the Office of the Registrar of Companies, Hyderabad on 05.03.1998. Therefore, in the present Criminal Petition, there are no grounds to proceed against the petitioner, in view of his resignation in the year 1995, for the transactions said to be held in the year 1998-99, i.e., subsequent to his resignation.

7. Having regard the facts and circumstances of the case, by following the ratio in judgment of this Court in Petition No. 7885 of 2007 and proceedings in CC No. 19/2006 are liable to be quashed.

8. In the result, the Criminal Petition is allowed, quashing the proceedings in CC No.19/2006 on the file of the III Additional Judicial First Class Magistrate, Kakinada.

9. The Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

GUDISEVA SHYAM PRASAD,J

Dated: 03.04.2018

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