

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.R.C.No.991 of 2012

Securities and Exchange
Board of India,
D' Monte Building III Floor,
32 D' Monte Colony,
T.T.K. Road, Alwarpet,
Chennai-18, represented by its
Assistant General Manager,
S.Dhakshinamurthy. ... Petitioner/Complainant

Vs.

1. M/s.Green Glory Pvt. Ltd.,
11-13-73-First Floor,
RDCC Bank Upstairs,
Nethaji Road,
Raichur 584 101,
Karnataka.
2. K.M.Basavarajappa,
Director,
M/s.Green Glory Pvt. Ltd.,
H.No.1-12-46/1,
Dady Colony,
Raichur 584 101.
3. K.B.Nandeshwari,
Director,
M/s.Green Glory Pvt. Ltd.,
H.No.1-12-46/1,
Dady Colony,
Raichur 584 101.

... Respondents/Accused

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the judgment and order dated 13.04.2010 passed in
C.C.No.11045 of 2003 on the file of the XXIII Metropolitan
Magistrate Court, Saidapet, Chennai.

For Petitioner : Mr.C.Prasanna Venkatesh
Mr.R.Sankara Narayanan(Amicus Curiea)

O R D E R

This criminal revision is directed against the judgment and order dated 13.04.2010 passed in C.C.No.11045 of 2003 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai.

2. For the sake of convenience, the petitioner and the respondents will be referred to as complainant and accused, respectively.

3. The facts of the case in brief are as under:

3.1 The complainant initiated a prosecution in C.C.No.11045 of 2003 before the XXIII Metropolitan Magistrate, Saidapet, Chennai, against Green Glory Pvt. Ltd., (A1) and its Directors (A2 and A3), alleging that they had failed to register themselves under the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999, which came into force in 1999.

3.2 The complaint was taken on file by the learned Magistrate and no effective steps were taken by the complainant to even identify the accused and serve summons on them. The trial Court had also issued warrants for execution, but, to no avail.

3.3 After waiting for a period of seven years, the trial Court dismissed the complaint on 13.04.2010, by passing the following order:

सत्यमेव जयते
"Complainant present. Accused called absent. No steps. Sufficient opportunities were given to the complainant for steps. This case is pending from 2004 without steps. Hence considering the pendency and steps not taken from 2004, this complaint is dismissed for steps not taken under Section 204 Cr.P.C."

3.4 Challenging the aforesaid order, the complainant is before this Court under Section 397 r/w 401 Cr.P.C.

4. This revision has been pending from 2012 and we are now in 2019. The complainant has not been able to serve summons on the accused. Under Section 401 (2) Cr.P.C., no order prejudicial to the interest of the accused can be passed by this Court. No useful purpose will be served by keeping this criminal revision indefinitely, especially when it is not known whether the accused are dead or alive.

5. On reading the complaint, it appears that the accused carried on with their business in Karnataka and there is no averment in the complaint to show that the XXIII Metropolitan Magistrate Court had the territorial jurisdiction to try the case.

Hence, this criminal revision is dismissed with liberty to the complainant to file a fresh complaint before the appropriate jurisdictional Court in Karnataka, if so advised.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nsd

To

The XXIII Metropolitan Magistrate,
Saidapet,
Chennai - 600 015.

+1cc to M/s.C.Prasanna Venkatesh, Advocate SR.86618

Cr1.R.C.No.991 of 2012

rr[col]
srg 09/12/2019

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