

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.R.C.No.992 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.Sphere Agrotech Ltd.,
(formerly known as DSJ
Agrotech Ltd.),
201 Raheja Arcade,
Koramangala Industrial Layout,
Banglore 400 043.

2. V.B.Padode,
Director,
M/s.Sphere Agrotech Ltd.,
(formerly known as DSJ
Agrotech Ltd.),
201 Raheja Arcade,
Koramangala Industrial Layout,
Banglore 400 043.

3. Pratap V. Padode,
Director,
M/s.Sphere Agrotech Ltd.,
(formerly known as DSJ
Agrotech Ltd.),
201 Raheja Arcade,
Koramangala Industrial Layout,
Banglore 400 043.

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4. Sanjay V. Padode,
Director,
M/s.Sphere Agrotech Ltd.,
(formerly known as DSJ
Agrotech Ltd.),
201 Raheja Arcade,
Koramangala Industrial Layout,
Banglore 400 043.

5. S.P.Singh,
Director,
M/s.Sphere Agrotech Ltd.,
(formerly known as DSJ
Agrotech Ltd.),
201 Raheja Arcade,
Koramangala Industrial Layout,
Banglore 400 043.

6. S.A.Khanvilkar,
Director,
M/s.Sphere Agrotech Ltd.,
(formerly known as DSJ
Agrotech Ltd.),
201 Raheja Arcade,
Koramangala Industrial Layout,
Banglore 400 043. ... 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.3711 of 2004 on the file of the XXIII Metropolitan
Magistrate Court, Saidapet, Chennai.

For Petitioner : Mr.C.Prasanna Venkatesh

For Respondents: Mrs.V.J.Latha

O R D E R

This criminal revision is directed against the judgment and
order dated 13.04.2010 passed in C.C.No.3711 of 2004 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.3711 of 2004 before the XXIII Metropolitan Magistrate, Saidapet, Chennai, against Sphere Agrotech Ltd., (formerly known as DSJ Agrotech Ltd.,) (A1) and its Directors (A2 to A6), 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 six years, the trial Court dismissed the complaint on 13.04.2010, by passing the following order:

"Complainant present. Accused called absent. Steps not taken. This complaint is pending from 2004 without any steps. Considering the pendency and steps not taken and sufficient opportunities were given to the complainant for steps. Hence, 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. In this criminal revision, summons have been served on the accused and they have entered appearance through Mrs.V.J.Latha, advocate.

5. A reading of the complaint in C.C.No.3711 of 2004 shows that there are prima facie materials for the prosecution to proceed against the accused.

In such perspective of the matter, this criminal revision is allowed by setting aside the judgment and order dated 13.04.2010 passed in C.C.No.3711 of 2004 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai. The

accused/respondents are directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and execute a bond for a sum of Rs.10,000/- with two sureties each, under Section 88 Cr.P.C. and it is open to them to raise all the defences available, before the trial Court.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nsd

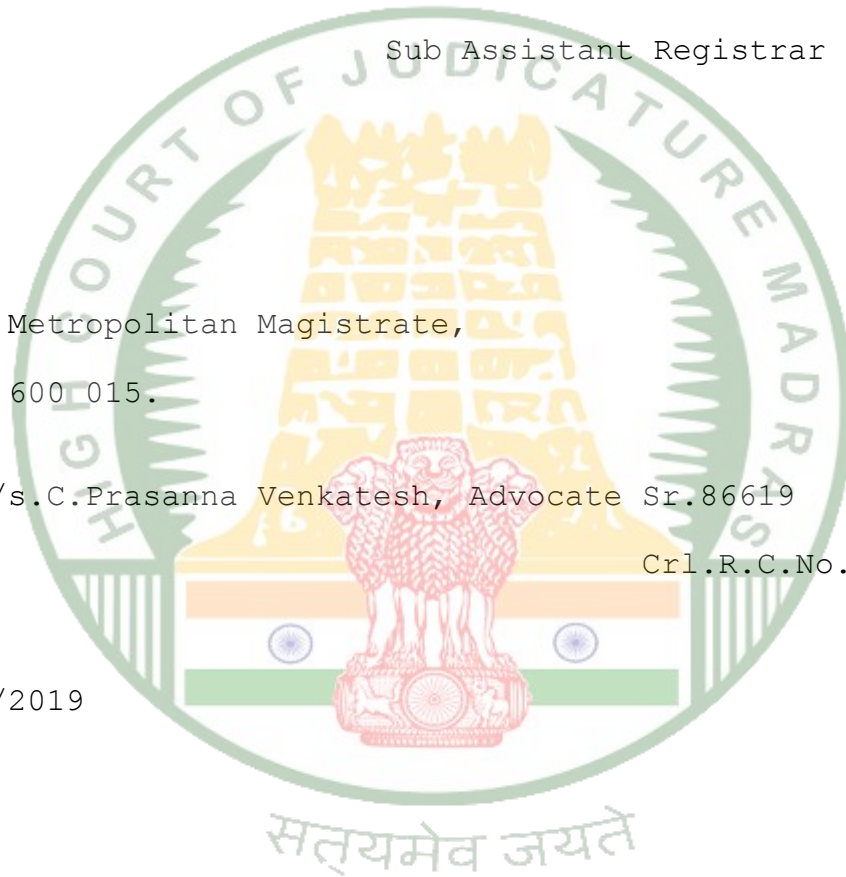
To

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

+1cc to M/s.C.Prasanna Venkatesh, Advocate Sr.86619

CrI.R.C.No.992 of 2012

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