



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.02.2020
CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.O.P.No.11589 of 2013
and M.P.Nos.1 & 2 of 2013

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1.M/s.Subhiksha Trading Services Limited,
Rep. By its Managing Director,
Mr.R.Subramanian
"Habib Complex", Cabin "A",
Flat No.2, 2nd Floor,
No.5,Durgabai Deshmukh Road,
R.A.Puram,
Chennai 600 028.

Now At:
Shop 11, Ground Floor (Rear side),
No.15/1, Thambiah Road,
West Mambalam,
Chennai 600 033.

2.R.Subramanian.

... Petitioners

-vs-

The Deputy Registrar of Companies,
Tamilnadu,
Shastri Bhavan,
No.26, Haddows Road,
Chennai 600 006.

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to quash the proceedings in E.O.C.C.No.244 of 2011 on the file of the Additional Chief Metropolitan Magistrate, (Economic Offences-I), Egmore, Chennai.

For Petitioners : Mr.R.Subramanian
Party-in-person.

For Respondent : Mr.D.Ramesh Kumar
Central Government Standing Counsel



O R D E R

The respondent herein filed a complaint before the Additional Chief Metropolitan Magistrate, Economic Offences, Egmore, Chennai-8, as against the petitioner Company and its Managing Director, under Section 220 of the Companies Act, 1956 for non-submission of Balance Sheet and Profit & Loss Accounts of the company for the financial year ending 31.03.2009. The learned Magistrate has taken cognizance of the complaint in E.O.C.C.No.244 of 2011. Pending this case, the 2nd Petitioner, viz., the Managing Director of the 1st petitioner Company has filed the present petition to quash the proceedings as against him as well as the company in E.O.C.C.No.244 of 2011.

2.The learned counsel for the petitioners would submit that the complaint is filed for non-submission of the Balance Sheet and Profit and Loss Account of the Company for the Financial Year ending 31st March 2009. But, the company's financial year ends only on 30th June 2009 and not on 31st March 2009. The company's Annual General Meeting has to be conducted on or before 31st December 2009 and the date for filing the Balance Sheet and Profit and Loss account was only on 31st January 2010. Therefore, the complaint is liable to be quashed.

3.The learned counsel for the respondent would submit that the petitioners have not filed the returns, therefore, the respondent issued the show cause notice. Further, the petitioners have not filed any reply or complied with the conditions mentioned in the show cause notice within seven days. The petitioners have not made out any valid and reasonable ground to quash the petition, hence, prays for dismissal of the petition.

4.Heard both sides and perused the records.

5. On a perusal of records, though the learned counsel for the petitioners has referred to Page Nos. 8 and 9 of the typed set of papers, there is absolutely no material to show that the petitioner's company's financial year ends only on 30.06.2009. Therefore, what is the financial year of the petitioner's company and what is the date, the Annual General Meeting was conducted, all these matters are the material facts and the same has to be and hereby decided only after the trial and not at this stage. Therefore, this Court is not inclined to invoke Section 482 Cr.P.C., to quash the complaint as against the petitioners. It is for the petitioners to raise all their defence before the trial Court. The learned counsel for the petitioners has rightly pointed out that this Court has already dealt with similar issue with regard to the same petitioner Company in Crl.O.P.No.23595 of 2012.



6. In the result, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to raise all his grounds before the trial Court. Connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

The Additional Chief Metropolitan Magistrate,
Economic Offences-I,
Egmore,
Chennai.

+1cc to Mr.D.Ramesh Kumar, Advocate, SR.No.8708.

Cr1.O.P.No.11589 of 2013

NRL (CO)
CSR: 10.03.2020