IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos. 12071 to 12078 of 2014
and
M.P.Nos.1 & 2 of 2014 in Crl.OP.No.12071/2014

D.Sadasivam ...Petitioner/Accused 3 in all Crl.OPs.

Vs.

The Deputy Registrar of Companies,
Tamil Nadu,
26, Haddows Road,
Shastri Bhavan,
Chennai 600 006. ....Respondent/ Complainant in all Crl.OPs

Common Prayer:Petitions filed under Section 482 of Cr.P.C., seeking to call for the records in E.O.C.C.Nos.233 to 240 of 2013 on the file of the Additional Chief Metropolitan Magistrate E.O.1, Egmore and quash the same.

In all Crl.OPs.
For Petitioner : Mr.C.Ramanlal

For Respondents : M/s..Ramesh Kumar, CGSC

ORDER

These petitions have been filed seeking to call for the records in E.O.C.C.Nos.233 to 240 of 2013 on the file of the Additional Chief Metropolitan Magistrate E.O.1, Egmore and quash the same.

2. The case of the prosecution is that the petitioner is the Company Secretary of TELEDATA MARINE SOLUTIONS LIMITED at Velachery Chennai. While he was working as Company Secretary of the siad company , vide application dated 16.08.2011, he requested the Ministry of Corporate Affairs to grant extension for the financial years under Section 210(4) of the Companies Act, which accepted the proposal and granted 6 months extension to prepare the accounts and submit the same on or before 30/9/2011. The petitioner has been charged for the offence of non filing of the balance sheet and profit and loss account by placing the same before the Annual General Meeting for the

financial year ending up to 31/3/2012 of the said company, which is an offence under Section 159 r/w section 162 of the Companies Act. The Annual General Meeting should have been held by 30/09/2012 and the balance sheet should have been filed on or before 30/10/2012. The petitioner ought to have filed the annual returns on or before 30/10/2012 and non filing of the same, attracts the offence under section 159 of the Companies Act which is punishable under section 162 of the Act. The complaint proceeds on the premise that the petitioner, being the officer of the company, should have carriedout his responsibilities in respect of the annual returns and non filing of annual returns, the default commences from 1/11/2012 and it is still continued. Cognizance was taken of the complaint and the case was posted for trial on 13/5/2014. Challenging the said complaint, the present petitions are filed by the petitioner.

3. Learned Counsel appearing for the petitioner submitted that the petitioner is the Company Secretary and he had submitted an application on 01.02.2012, stating that the petitioner wanted to be relieved from his post which proposal was accepted by the company and the petitioner was relieved of all his responsibilities and duties from the said company from 15/02/2012 and Form 32 has been filed before the Registrar of Companies and the same has been accepted. Therefore, the non filing of the balance sheet and profit and loss account and failure to place the same before the Annual General Meeting of the company canot be fastened on the petitioner, since he has resigned from the company and the complaint has been filed by the complainant based on the petitioner's earlier records without proper verification. Further, it is submitted that the learned Magistrate has not issued any summons to the petitioner, as the complainant, had not placed the Form 32 papers before the Court at the time of filing the complaint. Hence, he prays for allowing these petitions by quashing the complaints made against him.

4.Learned counsel appearing for the respondent did not dispute the fact that the petitioner has resigned from the company, before the initiation of proceedings.

5.Heard the submissions made by the the learned counsel appearing on either sides and the materials available on record.

6.The contentions of the learned counsel for the petitioner not being disputed by the learned counsel for the respondent and taking into consideration for the fact that the petitioner had resigned from the company and, therefore, has no authority to file any such balance sheet and profit and loss account and place the same before the annual general body meeting and represent the company in any manner, hence forcing the petitioner to face trial cannot be sustained.

7. For the reasons aforesaid, the present petitions are allowed and the E.O.C.C.Nos.233 to 240 of 2013 on the file of the Additional Chief Metropolitan Magistrate E.O.1, Egmore , are hereby quashed. Consequently, connected miscellaneous petitions are clsoed.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

jrs

To

1.The Additional Chief Metropolitan
Magistrate E.O.1, Egmore.

2.The Public Prosecutor,
High Court, Madras.

+5 Ccs to Mr.R. Ramanlaal, Advocate sr 16393.
+5 Ccs to Mr.D. Ramesh Kumar, Advocate sr 16074.

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SR(CO)
SP(04/06/2020)