



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.8726 of 2016

and

Crl.M.P. (MD)No.4247 of 2016

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Shri Kanarath Payattiyah Balaraj ... Petitioner/ Accused No.5
-vs-

The Income Tax Department,
by the office of the Deputy Commissioner of Income Tax,
TDS Circle, Madurai,
represented by authorized person
Smt.A.Padmameenakshi
Deputy Commissioner of Income Tax ... Respondent / Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records culminating in C.C.No.23 of 2016 pending on the file of the Judicial Magistrate No.1 of Tiruchirappalli, and quash the entire proceedings in respect of the petitioner, including the cognizance taken and summons issued to hteh petitioner.

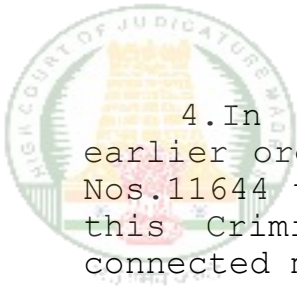
For Petitioner : Mr.V.Sankaranarayanan
For Respondents : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

The petitioner is shown as the fifth accused in C.C.No.23 of 2016 on the file of the Judicial Magistrate No.I, Trichy, for the offences under Sections 276 B read with 278 B of Income Tax Act, 1961. The respondent has instituted the impugned private complaint in view of the non remittance of TDS in time.

2.The learned counsel for the petitioner would point out that as against the accused company as many as four complaints were filed by the respondent herein on the same ground. He would point out that the petitioner herein is only a Non-Executive Director of the said company (M/s.Vasan Health Care (P) Ltd., Trichy) and that three of the complaints were already quashed by the learned Judge of this Court vide order dated 25.10.2019 made in Crl.O.P.(MD)Nos. 11644 to 11646 of 2018.

3.Heard the learned counsel appearing for the respondent. On carefully going through the order dated 25.10.2019, as well as the papers on record, I am satisfied that the case on hand is squarely covered by the aforesaid order. Since the petitioner was only a Non-Executive Director of the said company, continuance of the impugned prosecution is not warranted.



4.In this view of the matter, respectfully following the earlier order dated 25.10.2019 passed by this Court in Crl.O.P.(MD) Nos.11644 to 11646 of 2018, the impugned proceedings are quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Income Tax Department,
by the office of the Deputy Commissioner of Income Tax,
TDS Circle, Madurai,
represented by authorized person
Smt.A.Padmameenakshi
Deputy Commissioner of Income Tax

2.Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.SRIMATHI, Advocate (SR-3545[F] dated 29/01/2020)

Crl.O.P. (MD)No.8726 of 2016

and

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SMA/10/02/2020/2P/4C