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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

CrI.OP.No.14948/2016

[Video Conferencing]

Ravi Sam

... Petitioner/Accused

Versus

The Deputy Registrar of Companies
Tamil Nadu, Shastri Bhavan
26, Haddows Road,
Chennai 600 006.

... Respondent/Complainant

Prayer : - Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to complaint in EOCC No.104/2016 pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences [EO-I] at Egmore, Chennai - 8 and quash the same as against the petitioner/accused.

For Petitioner : Mr.Rathina Ashokan for
Mr.B.Dhanaraj

For Respondent : Mr.Ramanamoorthy
Central Government Counsel

ORDER

- (1) The petitioner / accused has preferred the present Criminal Original Petition, taking advantage of Section 482 of the Code of Criminal Procedure, questioning the continuation of EOCC.No.104/2016 now pending on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences Wing-1 at Egmore, Chennai.
- (2) The said EOCC.No.104/2016 had been taken cognizance by the said Additional Chief Metropolitan Magistrate pursuant to a complaint filed under Section 165 read with 165[6] of the Companies Act, 2013. Under Section 165 of the Companies Act, 'any person cannot hold the post of a Director



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including alternate Directorship in more than twenty Companies at the same time.'" Under Section 165[3] of the said Act, "if any person is a Director in more Companies than the limit as prescribed under Section 165[1], then, he shall chose to resign from the Companies which he wants to resign from, but at any rate, should not be a Director of more than 20 Companies.'"

- (3) The petitioner / accused herein is alleged to have been the Director in 16 Companies. Even before the proceeding further, Mr.K.Ramanamoorthy, learned Central Government counsel appearing on behalf of the respondent/complainant stated that out of 16 Companies, two of the Companies alone are within the jurisdiction of the Court at Chennai and 14 Companies are within the jurisdiction of the competent Court at Coimbatore. This was stated as a fact by the learned Central Government Standing counsel and he stated that therefore necessary order can be passed taking that point into consideration.
- (4) Mr.Rathina Ashohan, learned counsel appearing for the petitioner/accused, on the other hand also pointed out that out of 16 Companies, 10 Companies are Public Limited Companies and one is a Private Limited Company. Learned counsel also pointed out the document with respect to the striking of Companies and stated that three of the Companies had been struck off by the Registrar of Companies. He further pointed out that the petitioner also resigned as Director from two Companies. It is the contention of the learned counsel that the offence under Section 165 of the Companies Act, as stated above, would not be attracted to the petitioner/accused viewed from that angle taking into account the Companies which are struck off by the Registrar of Companies and the Companies from which the petitioner/accused had resigned Directorship and also the Private Limited Company which alone stand out and taking into account, the Public Limited Companies in which he is a Director. Irrespective of these facts, since the complaint has been lodged in Chennai, it would only be appropriate that it is lodged in Coimbatore.
- (5) But, I would give the privilege to the respondent/complainant of explaining why it was originally lodged in Chennai and if later lodged in Coimbatore, reasons for the same to be addressed to the said competent Court and the learned Magistrate may take a call on accepting or rejecting those reasons. It would be inappropriate for this Court to indicate to the respondent herein to prefer a complaint at Coimbatore. An obligation is placed on the respondent to explain the circumstances



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necessitating filing the complaint originally in Chennai and thereafter, shifting the said complaint to Coimbatore. Let those reasons be forwarded to the competent Court at Coimbatore, if the respondent has instructions to proceed further.

- (6) Needless to point out, any reason stated, necessarily can be controverted by the petitioner/accused herein in the manner known to law.
- (7) The Criminal Original Petition is allowed and the proceedings in EOCC.No.104/2016 now pending on the file of the learned Additional Chief Metropolitan Magistrate / Economic Offences Wing-1, Egmore, Chennai, stands quashed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Additional Chief Metropolitan Magistrate
Economic Offences [EO-1],
Egmore, Chennai-8.
- 2.The Deputy Registrar of Companies
Tamil Nadu, Shastri Bhavan
26, Haddows Road,
Chennai 600 006.
- 3.The Public Prosecutor
High Court, Madras.

+1cc to Mr.B.Dhanraj, Advocate Sr No.41964

Cr1.OP.No.14948/2016

SS (CO)
PR (06/09/2021)