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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.15889 of 2016

and

Crl.M.P.No.7770 of 2016

Natesan Balasubramanian

.. Petitioner

Vs.

The Deputy Registrar of Companies,
No.26, Haddows Road,
Chennai - 600 034.
(EOCC No.99 of 2016)

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in E.O.C.C.No.99 of 2016 pending on the file of the Additional Chief Metropolitan Magistrate (EOI), Chennai and to quash the same.

For Petitioner : Mr.S.Ashok Kumar
SC for Mr.A.Sasidharan

For Respondent : Mr.D.Ramesh Kumar
CGSC

O R D E R

(The case has been heard through video conference)

Seeking to call for the records in E.O.C.C.No.99 of 2016 on the file of the learned Additional Chief Metropolitan Magistrate (EOI), Chennai and quash the same, the petitioner has come up with this petition.

2. The respondent, Deputy Registrar of Companies, filed a complaint against the petitioner alleging that, the petitioner in violation of Section 165(1) of the Companies Act, 2013, was holding the post of Director in 33 companies.



3. Mr.S.Ashok Kumar, learned senior counsel appearing for the petitioner submitted that out of the 33 companies, admittedly he resigned from four companies and 1 company become defunct another 10 companies were amalgamated with another and dissolved. In such circumstances, the petitioner was holding the post of Director only in 18 companies, which is permissible under Section 165(1) of the Companies Act.

4. The learned senior counsel for the petitioner further referred to the counter affidavit filed by the respondent, wherein, it is clearly stated in paragraph Nos.6, 7 and 8 that the petitioner has resigned from four companies and one company has been struck off as per the provisions of the Companies Act, 1956 and ten companies have been dissolved as per the order of amalgamation passed by this Court. The learned senior counsel further referred to paragraph No.9, wherein, it has been stated that the respondent had inadvertently filed the complaint, against the petitioner, alleging violation of Section 165 of the Companies Act.

5. Mr.D.Ramesh Kumar, learned Central Government Standing Counsel appearing for the respondent also referring to the counter affidavit submitted that now the petitioner is holding the post of Director only in 18 companies and the complaint has been inadvertently filed.

6. I have considered the rival submissions.

7. In the counter affidavit filed by the respondent, from paragraph Nos.6, 7 and 8, it could be seen that the petitioner, on the date of filing of the complaint was holding the post of Director only in 18 companies, which is within the permissible limit under Section 165(1) of the Companies Act, 2013. Before filing the complaint, the petitioner resigned from four companies and one company has been struck off as per the provisions of the Companies Act and 10 companies have been dissolved as per the order of amalgamation passed by this Court. The respondent also further stated that inadvertently complaint has been preferred. In paragraph No.9 of the counter it is stated as follows:

"9. It is submitted that the respondent had inadvertently filed the prosecution in the said matter in the EOCC No.99 of 2016, against a company for violation of Section 165 of the Companies Act, 2013."

8. Considering the above circumstances, on date of complaint, the petitioner was holding the post of Director only in 18 companies and it is permissible under Section 165(1) of



the Companies Act, 2013. Hence the proceedings in E.O.C.C. No.99 of 2016 pending on the file of the Additional Chief Metropolitan Magistrate (EOI), Chennai is not maintainable and it is liable to be quashed and accordingly quashed.

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9. In the result, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Metropolitan Magistrate (EOI),
Chennai.
2. The Deputy Registrar of Companies,
No.26, Haddows Road,
Chennai - 600 034.

+1cc to Mr.A.Sasidharan, Advocate, S.R.No.57815

+1cc to Mr.D.Ramesh Kumar, Advocate, S.R.No.57999

CrI.O.P.No.15889 of 2016
and
CrI.M.P.No.7770 of 2016

NRL(CO)
SU(24/11/2021)