IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.12.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

Crl.O.P.No.26932 of 2015
and
M.P.No.1 of 2015

Deepak Bhalotia ...Petitioner

Vs

M.O. Roy,
Assistant Director,
Serious Fraud Investigation Office,
Ministry of Company Affairs,
Government of India,
2nd floor, Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi - 110 003 ...Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records and quash the complaint in EOCC No.127 of 2006 on the file of the learned Additional Chief Metropolitan Magistrate(EO-II), Egmore, Chennai as against the petitioner and allow the petition.

For petitioner ... Mr. Harshad P. Goklaney

For respondent ... Mr. Sankaranarayanan,
Assistant Solicitor General
for Mr. B.Rabu Manohar

ORDER

This Criminal Original Petition has been filed to quash the Criminal Proceedings in E.O.C.C.No.127 of 2006 pending on the file of the Additional Chief Metropolitan Magistrate(EO-II), Egmore, Chennai.

2. The respondent, Assistant Director of Serious Fraud Investigation Office, Ministry of Company Affairs, filed a

complaint against the petitioner for the offence under Section 621 of the Companies Act, 1986, for violation of Section 2(2) of the Companies Act, 1956 on the ground that the petitioner, who is said to be a Director of A1 Company, has prepared and published balance sheet of its US subsidiary Company in US dollar for the years 1997 to 2002, without any approval of the Central Government, which is in violations of Section 212 of the Companies Act. The learned Additional Chief Metropolitan Magistrate (E.O.II), Egmore, taken cognizance of the offence and issued summons. To quash the same, the present petition has been filed.

3. The learned counsel for the petitioner submitted that admittedly, the offence said to have been committed by A1 company between the year 1997 to2002. At that time, the petitioner is not the Director of the company and he was inducted as a Director only on 22.11.2003, i.e., after the offence period. To support his contention, the learned counsel also produced Form-32 issued by the Registrar of the Company.

4. Mr.Sankaranarayanan, Additional Solicitor General, on instructions, fairly submitted that the petitioner was inducted as Director only on 22.11.2003, i.e., after the offence period and hence he cannot be prosecuted.

5. Recording the submission that the petitioner was not the Director of the A1 company at the time of the offence alleged to have been committed, this Court is inclined to quash the proceedings as against the petitioner.

6. Accordingly, this Criminal Original Petition is allowed and the the case against the petitioner in EOCC No.127 of 2006 on the file of the Additional Chief Metropolitan Magistrate (EOII), Egmore, Chennai, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

mrp

To

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

2.The Assistant Director,
  Serious Fraud Investigation Office,
  Ministry of Company Affairs,
  Government of India,
  2nd floor, Paryavaran Bhavan,
  CGO Complex, Lodhi Road,
  New Delhi - 110 003

+1cc to Mr.Prakash Goklaney, Advocate SR. No.52
+1cc to Mr.B.Rabu Manohar, Advocate SR. No.68909

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PA (CO)
PR (25/01/2022)