



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14660 of 2021

M/s. Dalmia Bharat Ltd.
(Formerly known as Odisha Cement Ltd.),
Rep by its Authorized Signatory Mr. Deepak ...Petitioner

Versus

The Registrar of Companies,
Shastri Bhawan II Floor,
Block V & VI,
26 Haddows Road,
Chennai - 600 006. ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the Learned Additional Chief Metropolitan Magistrate, Economic Offences - II, Egmore, Chennai to grant certified copies of the complaint along with supporting documents filed in CC Nos. 95 to 103 of 2019.

For Petitioner : Mr. A. Ramesh Senior Counsel
for Mr. P.J. Rishikesh

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed seeking a direction directing the learned Additional Chief Metropolitan Magistrate, Economic Offences-II, Egmore Chennai to grant certified copies of the complaint along with documents filed in C.C.Nos.95 to 103 of 2019.

2. The contention of Mr.A.Ramesh, learned senior counsel appearing for petitioner is that the petitioner is one of a leading cement manufacturers in India and a listed company, listed on the National Stock Exchange and the Bombay Stock Exchange. The petitioner has been complying with all the required statutory and regulatory provisions of the Companies Act, 2013. The petitioner was surprised to receive seven summons



from the lower court. From the summons, it is understood that the respondent preferred a private complaint against the petitioner and the next date of hearing was 11.05.2021. The summons was not accompanied with the copy of complaint as required under Section 204 (3) of Crl.P.C. The complaint has been instituted, otherwise on a police report. Thereafter, there was lock down in view of second wave of Covid-19 pandemic.

3. Mr. A.Ramesh, learned senior counsel appearing for petitioner would further submit that the authorised signatory Mr. Deepak of the petitioner company appeared and filed a copy application in C.A. No.4067 of 2021 on 01.07.2021 before the lower court seeking for copy of complaint in E.O.C.C.No.95 of 2019. Thereafter, the copy application was returned on 05.07.2021 with an endorsement as follows :-

"Accused/petitioner so far not appeared before this court. Hence, how the petition is maintainable."

On 07.07.2021, the returned copy application was represented giving explanation and also referring to the judgment of this Court reported in 1998 Cri.LJ 1959. Further, reiterating the submissions that under Section 204(3) of Cr.P.C. and under Rule 7 of Criminal Rules of Practice, even when the other accused did not appear in the cases arising out of a private complaint, the copy application to be entertained and copies to be furnished. Though along with the citation copy application represented on 07.07.2021, thereafter on 08.07.2021, the lower court rejected the same for the following reasons :-

"While represented, it has been stated that copy of the complaint has not been received by the petitioner/accused along with the summons. If so, petitioner/accused has to appear before the court on the hearing date and has to receive copies. Perusal of court records would show that neither the petitioner nor other accused have appeared before the Court. Petitioner/accused is not entitled for certified copy of complaint prior to appearance before the Court. Hence, returned."

In view of the same, learned senior counsel would submit that there have been numerous judgments of this court holding that along with summons, as per Section 204(3) of Cr.P.C., the copies of complaint shall be sent to the accused. Further placing reliance on the Apex Court Judgment in the case of Prakash Gupta vs. Securities and Exchange Board of India reported in 2021 SCC OnLine SC 485, in which it is held that at the earliest point of time, compounding of offence to be made. In this case, the petitioner only on receipt of the copy of complaint and going through the same, a decision to be taken to compound the offence and further complaint is filed by the Registrar of Companies for some violation of procedures and rules under company law, which are technical offences and compoundable. The Lower Court insisting upon the presence of the petitioner and other accused



is unreasonable on the facts of the case. Further, they are aged persons, aged about 75 years.

4. Heard the submissions of learned Senior Counsel appearing for petitioner and perused the materials available on record carefully.

5. Considering the submissions and on perusal of materials, it is seen Section 204(3) of Crl.P.C. is very specific that along with the summons, the copy of the complaint shall be accompanied, which this Court had time and again reiterated. Further, as per Section 25(4) of Criminal Rules of Practice, where a private complaint is filed before the concerned court, it shall be accompanied as many copies of complaint and relied upon the document as similar to the number of accused in the case. This is for the purpose that each of the accused to be furnished with the copy of complaint and documents. Further, as per Sec. 29(3) of Criminal Rules of Practice, where proceedings have been initiated upon a complaint by a public servant, the complaint shall accompany the summons. In this case, the Registrar of Company, a Public Servant has lodged a complaint. In view of the same, this Court finds that rejection of copy of complaint by the learned Addl. Chief Metropolitan Magistrate, E.O.II, Egmore, Chennai is not proper. In view of the same, the petitioner is entitled for a copy of the complaint as per Section 204(3) of Cr.P.C. The Trial Court is directed to furnish the petitioner with the copy of the complaint. The petitioner to resubmit the returned copy application or file a fresh copy application to the Trial Court, who shall furnish the same.

6. With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpp/rgi

To

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



2. The Registrar of Companies,
Shastri Bhawan II Floor,
Block V & VI,
26 Haddows Road,
Chennai - 600 006.

+2 CC to M/s.P.J.Rishikesh, Advocate, Sr.No. 42257

CRL.O.P.No.14660 of 2021

RR(CO)
LS(25/08/2021)