



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl. O.P. No. 14105 of 2017

and

Crl.M.P.Nos. 9017 and 9018 of 2017

1. Mr.DONG HO LEE

....Petitioner/2nd Accused

Versus

The Deputy Registrar of Companies, Tamil Nadu
Having office at Shastri Bhavan
26, Haddows Road
Chennai - 600 006

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in E.O.C.C.No.28 of 2017 pending on the file of the Additional Chief Metropolitan Magistrate Economic Offences-I, Egmore, Chennai and quash the same as against the petitioner herein.

For Petitioner ... Mr.S.Senthil

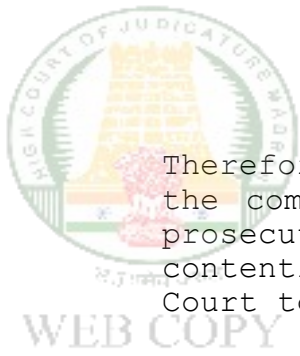
For Respondent ... Mr.R.Sankaranarayanan
Assistant Solicitor General of India

O R D E R

This Criminal Original Petition has been filed to quash the proceedings initiated against the petitioner for the offence under Section 233B of the Companies Act, 1956 in E.O.C.C.No.28 of 2017 pending on the file of Additional Chief Metropolitan Magistrate Economic Offences-I, Egmore, Chennai.

2. The case of the prosecution is that the petitioner, who was the Managing Director of the Company at the relevant point of time, has not filed the Cost Audit Report as required under Section 233B of the Act.

3. The learned counsel for the petitioner submitted that the petitioner was inducted as Managing Director of the company only on 01.09.2014, whereas the allegation is that Cost Audit Report has not been filed by the company for the year 2012-13.



Therefore, the petitioner was not responsible for the affairs of the company at the relevant point of time and therefore, the prosecution cannot be launched against him. In support of his contention, learned counsel also drew the attention of this Court to Form DIR 12.

4. Heard the learned counsel for the petitioner and the learned Assistant Solicitor General of India appearing on behalf of the respondent.

5. The entry in Form No. DIR-12 is not disputed. Therefore, this Court is of the view that when the petitioner was inducted as Managing Director of the Company only on 01.09.2014, the question of initiating prosecution against the petitioner for the lapses occurred for the year 2012-2013 is nothing but an abuse of process of law and the same cannot be sustained.

In such view of the matter, this Criminal Original Petition is quashed. However, it is open to the respondent to initiate prosecution against appropriate person who was responsible at the relevant point of time.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Additional Chief Metropolitan Magistrate E
conomic Offences-I,
Egmore, Chennai.

2. The Deputy Registrar of Companies, Tamil Nadu
Having office at Shastri Bhavan
26, Haddows Road
Chennai - 600 006.

+1cc to Mr.P.H.Manoj Pandian, Advocate, S.R.No.63267

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NSK 13/12/2021