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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NO.16482 OF 2016

CRL.M.P.NO.7995 OF 2016

Dipak Raj Sood

...Petitioner / Accused

Vs.

The Deputy Registrar of Companies,
Tamil Nadu,
having office at Shastri Bhavan,
26, Haddows Road, Chennai - 600 006. ...Respondent / Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in E.O.C.C.No.43 of 2016, on the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences, Egmore, Chennai and quash all further proceedings as against the petitioner.

For Petitioner : Mr.Vineet Subramani

For Respondent : Mr.Rabu Manohar, CGSC

O R D E R

Seeking to call for the records in E.O.C.C.No.43 of 2016 on the file of the learned Additional Chief Metropolitan Magistrate (EO), Egmore, 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)(3)&(5) of the Companies Act, 2013, was holding the post of Director in 25 companies.

3. To quash the above complaint, the present criminal original petition has been filed on the ground that the petitioner is holding the post of Director only in 20 companies and he has not violated any provisions of the Companies Act.

4. Earlier notice was ordered to the respondent and a counter affidavit has been filed by the respondent, wherein, it is stated that the petitioner was holding the post of director only in 20 companies, which is not in violation of the relevant



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provisions of the Companies Act. The relevant portion of the counter affidavit is extracted hereunder:

"4. It is humbly submitted that Pace Holding Limited was converted into LLP and dissolved in 2013 in which company, the petitioner herein was a Director. It is submitted that as per Section 165 of Companies Act, 2013, Partner in a Limited Liability Partnership (LLP) is not considered as Director of a Company, therefore the petitioner herein is a director only in 20 companies as per the signatory details available in the Ministry of Corporate Affairs (MCA) 21 portal during the period of filing the complaint."

5. Considering the above circumstances, the petitioner was holding the post of Director only in 20 companies and it is permissible under Section 165(1) of the Companies Act, 2013. Hence the proceedings in E.O.C.C. No.43 of 2016 pending on the file of the Additional Chief Metropolitan Magistrate (EO), Egmore, Chennai is not maintainable and it is liable to be quashed and accordingly quashed.

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

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1.The Additional Chief Metropolitan Magistrate (EO),
Egmore, Chennai

2.The Deputy Registrar of Companies,
Shastri Bhavan, 26, Haddows Road,
Chennai - 600 006.

+1cc to M/s.Vineet Subramni, Advocate Sr.No.2412

+1cc to M/s.B.Rabu Manohar, Advocate Sr.No.2287

CrI.O.P.No.16482 of 2016
CrI.M.P.No.7995 of 2016

SJ(CO)
RVM(28/01/2022)