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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.01.2022
CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR
Crl.O.P.No.6848 of 2018 and
Crl.M.P.Nos.3506 & 3507 of 2018

Dattatraya Murari Shirodkar

... Petitioner

Vs

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 Criminal Procedure Code, to call for the records in E.O.C.C.No.389 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, E.O.1, Chennai-3, quash the summons and all further proceedings thereof.

For Petitioner : Mr.PL.Narayanan

For Respondent : Dr.D.Simon,
Central Government Standing Counsel
O R D E R

This Petition has been filed to quash the proceedings initiated by the Respondent for the alleged violations in conducting Annual General Body Meeting and filing Balance Sheet in time as stipulated in the Companies Act 1956.

2. This Petitioner is arrayed as Accused No.5 in EOCC No.389 of 2017. The main contention of the learned counsel for the Petitioner is that the Petitioner is an independent Director, he was nominated and hence he is not responsible for any act by the other Directors to constitute an offence under Companies Act 1956. Hence he sought to quash the proceedings.

3. Counter affidavit has been filed by the Respondent, wherein para 5 clearly stated as follows:



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"5. The Respondent humbly submits that petitioner/5th Accused is not liable for any act or commission by the company or by any officers of the company which constitute a breach or violation of any provision of the Companies Act, vide Section 14 (12) of the Companies Act, 2013 and also in tune with the General Circular No.08/2011 issued by the Ministry of Corporate Affairs."

4. As the Respondent himself admitted that the Petitioner is independent director, he is not responsible for any act or commission by the company. Further, merely because they are nominated himself as a Director, he cannot be prosecuted for the alleged violation. In such a view of the matter, the proceedings initiated against the Petitioner is quashed.

5. In the result, the Criminal Original Petition is Ordered. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ggs / kbs

To

1. The Additional Chief Metropolitan
Magistrate Court, E.O.1, Egmore at Allikulam, Chennai - 3.

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

3. The Public Prosecutor, High Court, Madras - 600104.

+1 cc to Dr.Simon, Advocate Sr.NO. 2505

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pmk (CO)
A.SK(08.02.2022)