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Crl.OP.No.18800 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.18800 of 2022
and Crl.M.P.Nos.12427 and 12429 of 2022

Padmanabhan

... Petitioner

Vs.

The Deputy Registrar of Companies,
Tamil Nadu having office at
Shastri Bhavan,
No.26, Haddows Road,
Chennai - 600 006.

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., prayed to call for the records connected with E.O.C.C.No.297 of 2015 on the file of Hon'ble Additional Chief Metropolitan Magistrate -I, Economic Offences, Egmore, Chennai - 600 008, quash the same.

For Petitioner

: Mr.C.Suraj

For Respondent

: Mr.S.Janarthanam

ORDER

This Criminal Original Petition has been filed to call for the records in



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connection with E.O.C.C.No.297 of 2015 on the file of learned Additional Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-600 008 and quash the same.

2. The learned counsel for the petitioner would submit that the petitioner herein is the Director of the 1st accused company. He would further submit that the respondent herein, Deputy Registrar of Companies, Tamilnadu, had filed a private complaint as against the 1st accused company and the petitioner/A2, for the alleged offences under Section 149 of Companies Act for non appointing one women director as required under Section 149(1) of Companies Act, 2013 r/w Rule 3 of Companies (Appointment and Qualification of Directors) Rules, 2014 within a period of one year from the date of commencement of Companies Act, 2013 i.e.,01.04.2014. He would also submit that the respondent had issued Show Cause Notice on 07.06.2015 to the 1st accused company. He would further submit that this Court by order dated 18.06.2014 in C.P.No.274 of 2010 had appointed the Official Liquidator as the provisional liquidator of the 1st accused company and discharged the Director of the 1st accused company. He would also submit that on the date of issuing notice itself, the 1st accused company undergoing



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liquidation. Under this circumstances, the offences as stated in the private complaint in violation of Section 149 of Companies Act, 2013 will not made out.

Therefore, he seeks to quash the proceedings in E.O.C.C.No.297 of 2015 on the file of the learned Additional Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-600 008.

3. The learned counsel for the respondent would submit that the respondent herein had filed a detailed counter and also contended that this Court by order dated 18.06.2014 in C.P.No.274 of 2010 had appointed the Official liquidator as provisional liquidator of the 1st accused company and the company is under process of liquidation.

4. Heard the learned counsel for the petitioner and learned counsel for the respondent and perused the materials available on records.

5. Considering the fact that this Court had appointed the Official liquidator as provisional liquidator of the 1st accused company and the company is under process of liquidation, the offences as stated in the complaint under Section 149 of



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Companies Act, 2013 for non-appointment of Women Director will not attract. No offence has been made out for continuing the criminal proceedings against the petitioners. Hence, the proceedings in E.O.C.C.No.297 of 2015 on the file of the learned Additional Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-600 008 is liable to be quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

13.10.2022

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

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To

1. The Additional Chief Metropolitan Magistrate -I,
Economic Offences, Egmore,
Chennai - 600 008.
2. The Deputy Registrar of Companies,
Shastri Bhavan,
No.26, Haddows Road,
Chennai - 600 006.
3. The Public Prosecutor
High Court, Madras.



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V.SIVAGNANAM,J.

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