

IN THE HIGH COURT OF JUDICATURE AT PATNA
Or. Criminal Miscellaneous No.1 of 2005

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THE OFFICIAL LIQUIDATORM/S GANGA VANASPATI LTD.

... .. Petitioner/s

Versus

OM PRAKASH CHIRANIA and ORS

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Muktar Singhoffi.Liquid., Adv.
For the Opposite Party/s :	Mr. Mukesh Kant, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

61 19-01-2023

1. This is an application filed to take up criminal proceedings against the accused for having violated the provisions of Section 454 (5) of the Companies Act and having not submitted statement of affairs within the requisite time period as laid down therein. The accused respondents were the Directors and the officers who were lastly posted on the Board of Directors of the company liquidation which was engaged in manufacturing of hydrogenated vegetable oil.

2. The company had been ordered to be winded-up by this Court vide its order dated 7th April 1995, in terms of the opinion of B.I.F.R., under Section 20(1) of the Sick Industrial Companies Act, 1985. The O.L. was appointed as liquidator of the company with effect from 24.04.1995. It is stated by the learned O.L. that the accused were obliged to submit statement



of affairs within the time limit prescribed i.e. 21 days in terms of Section 454 (3) of the Act of 1956 but, in spite of the time having expired, none of the Board of Directors namely, the respondent accused submitted their statement of affairs nor the same were filed within the extended period as prescribed. No reasonable grounds have come forward for not having submitted the statement of affairs within the time prescribed and therefore, they deserve to be punished in terms of the said provisions.

3. This Court had taken cognizance of the offence against the accused persons. Later on vide order dated 10.03.2006 discharged accused no. 4. As far as accused no. 1 Om Prakash Chirania is concerned, he expired on 8th September 2022 and was therefore, discharged and similarly proceedings were closed on 17/11/22 as against Dev Prakash Rungta who also expired. As regards accused no. 2 is concerned, all possible steps were taken to secure his presence before this Court but for years together he has remained absconding and there is no information about his whereabouts. The police authority have not been able to search out and standing warrant has already been issued against him.

4. The company was wound up in terms of the directions of the B.I.F.R. which found that the affairs of the



company were not possible to be continued. In view that it had become sick and was not in a position to pay out its debts liabilities. Since, the order was passed in compliance of directions of the B.I.F.R. which was having the entire details of the statement and affairs of the company, non submission of statement of affairs subsequently in terms of 454 (3) ought not be treated and considered as a ground to initiate criminal proceedings against Directors as, it would be reasonable for them to take an excuse that the said entire details were lying with B.I.F.R.

5. Keeping in view thereto, the proceedings initiated by this Court under 454 (5) of the Companies Act, 1956 are found to be unnecessary exercise in futility and accordingly, this Court deems it appropriate to close the proceedings under 454 as against the accused are dropped. Standing warrants issued as against accused no. 2 is also dropped and criminal prosecution is closed. The Proceedings are consigned to record.

(Sanjeev Prakash Sharma, J)

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Item No. 90

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