

19.06.2023

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CRR 2321 of 2011

In the matter of : Dwarka Prasad Agarwal & Ors.
.... for the petitioners.

None appears for the parties.

The instant criminal revisional application is pending since 2011 and as such is required to be disposed of.

The instant revisional application has been filed seeking an order to quash the complaint in connection with Case No. C-4238/2003 filed under Section 628 of the Companies Act, 1956. The petitioner, inter alia, stated on 30.07.2003 the Deputy Registrar Companies West Bengal Kolkata filed a complaint before the learned Chief Metropolitan Magistrate, Calcutta implicating the petitioners being accused No. 1 to 4 to be the Directors of the company consequently violated its own commitment prescribed in the booklet and the Director's report thereby and the said accused persons/petitioners rendered themselves liable for punishment as provided under Section 628 of the Companies Act. It was further contended that show-cause notice was issued to the petitioners on 12.02.1998 and the reply to the same received by the complainant on 25.02.1998 i.e. 30.07.2003. There was after a lapse of more than five years and in view of provision Section 468 of the Code of Criminal Procedure the case was not maintainable being filed beyond the expiry period of the limitation.

The criminal proceeding alleged to have been filed five years after knowledge of the same being received by the complainant with regard to the commission of offence under Section 638 of the Companies Act is barred by limitation under Section 468 of the Code of Criminal Procedure and is liable to be quashed. Any incorrect statement appearing in the books of account does not constitute an offence punishable under Section 472 of the Code of Criminal of Procedure Code.

Under Such circumstances, the impugned proceeding being complaint case No. C-4238/2003 pending before the learned Metropolitan Magistrate, 10th Court, Kolkata is quashed.

The instant revisional application is dismissed.

Copy of the order be sent to the Department as well as trial court for due compliance.

(Ananya Bandyopadhyay, J.)