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CrI.O.P No.16643 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.16643 of 2023

and

CrI.M.P.No.10641 of 2023

Sandeep

... Petitioner

vs.

1.The State of Tamilnadu,
Rep. by Inspector of Police,
G1-Town Police Station,
Udhagamandalam,
The Nilgiris.

2.The Judicial Magistrate,
Udhagamandalam,
The Nilgiris (Complainant).

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.172 of 2023 dated 19.05.2023 on the file of 1st respondent and quash the same.

For Petitioner : Mr.Gyanendra Mishra
for Mr.Navas Shareef.M.

For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.172 of 2023 pending on the file of the first respondent.

2. Heard the learned counsel for petitioner and the learned Additional Public Prosecutor appearing on behalf of first respondent.

3. An F.I.R. came to be registered in Crime No.26 of 2022 by the CCD-II, Nilgiris. In the course of investigation in this F.I.R., the bank accounts belonging to the company was freezed. Hence, a petition was filed in C.M.P.No.1537 of 2023 for defreezing the bank account. Originally, the application was returned by the learned Judicial Magistrate, Udthagamandalam on 09.01.2023 for production of the original copy of the Board Resolution. Thereafter, the counsel who was appearing for the petitioner was changed and a fresh petition was filed on 13.02.2023 seeking for defreezing the bank account. While filing this petition, the original Board Resolution authorising the petitioner to represent the company was also filed.



4. The learned Judicial Magistrate, Udhagamandalam came to a conclusion that the earlier Board Resolution is different from the Board Resolution that was filed along with the present petition and also there is a difference in the signature of the Directors between the two resolutions. Hence, the learned Judicial Magistrate came to a conclusion that forged documents have been presented before the Court and consequently directed the first respondent to register an F.I.R. and based on the same, an F.I.R. in Crime No.172 of 2023 came to be registered by the first respondent for offence under Sections 465, 468, ,471 and 420 of I.P.C. Aggrieved by the same, the present quash petition has been filed before this Court.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. In the considered view of this Court, the learned Judicial Magistrate had jumped to a conclusion without properly going through the documents that were placed before the Court. Initially, the Board of Directors had authorised the petitioner to represent the company by virtue of the Board Resolution dated 23.11.2022. The same was signed by two Directors, viz., Sabera Begum and Nuzhat Masood.



WEB COPY 7. The counsel was changed and a fresh petition came to be filed before the Court below on 13.02.2023. While filing this petition, the same Board Resolution was filed before the Court below. If the learned Judicial Magistrate was of the opinion that there was a difference in the signatures between both the resolutions, the learned Judicial Magistrate ought to have summoned the Director of the company and sought for a clarification.

8. The Directors of the company have now filed a Legal Declaration before this Court and for proper appreciation, the relevant portions are extracted hereunder:

“That the Board of Directors had authorised and empower Sandeep S/o.Rajendra, having UID No.9578 7807 8066 to make, execute, endorse and deliver in the name of and on behalf of the UNIDEX LABS PRIVATE LIMITED to execute the legal deeds associated to LEAs, but shall not be limited to, any and all written instruments, agreements, documents, powers of attorney, transfers, assignments, contracts, obligations, certificates and other instruments of whatever nature entered into by this Corporation. It was also resolved that Sandeep S/o.Rajendra, the authorised representative, having UID No.9578 7807 8066 will act as an authorised representative to file, sign, withdraw any petition,



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application, document in all manner whatsoever, in this context a Special Power of Attorney was also issued by the present signatories.

That it is hereby confirmed and reaffirmed that any/every documents/board resolution/SPA filed by Sh.Sandeep S/o.Rajendra, having UID No.9578 7807 8066 in connection with case FIR No.26/2022, District CCD-II, PS Nilgiris, Dated:22-09-2022, pending before Ld. Magistrate, Ooty, District Nilgiris Tamil Nadu has been legally and dully executed, signed, and authenticated by the present signatories. It is further declared that our none of the board resolutions has been forged or falsified by anyone including Sh.Sandip. It is further reaffirmed Sh.Sandip is not the director, nor he holds any posts as such and he is merely an authorised representative with only purpose to file application for bank account defreezment of the companies held and operated by the present directors and signatories, and other than this he does not possess any role with us.

The undersigned certifies that he is the properly elected and qualified Secretary of the books, records and seal of UNIDEX LABS PRIVATE LIMITED a corporation duly conformed pursuant to the laws of the Government of India and that the said meeting was held in accordance with State laws and with the Bylaws of the above-named Corporation.

In the interest of justice, it is further clarified that in case in



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any of the documents including the board resolution or any paper whatsoever, which contains signature mismatch, is nothing but merely a co-incidence and not the falsity or the forgery in any manner.

We, as authorised by the company, hereby certify, and attest that Declaration/Company statement above is true and correct.”

9. It is clear from the above that the Directors of the company have confirmed the fact that the company had authorised the petitioner to represent the company in the application filed for defreezing the bank account. If such confirmation had been taken by the Court below, there was no need for ordering registration of F.I.R. against the petitioner. In any case, if the Court below thought that an offence has been committed during the course of the proceedings (*Custodia Legis*), the Court below ought to have proceeded further under Section 340 of Cr.P.C. The registration of the F.I.R. in this case was unwarranted and the continuation of investigation against the petitioner after the company has confirmed that it is the petitioner who was authorised to represent the company, will be an abuse of process of law.

10. In the light of the above discussions, the F.I.R. in Crime No.172 of 2023 is hereby quashed and this Criminal Original Petition is allowed.



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Consequently, connected miscellaneous petition is closed.

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21.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
rsi

To

- 1.The Inspector of Police,
G1-Town Police Station,
Udhagamandalam,
The Nilgiris.
- 2.The Judicial Magistrate,
Udhagamandalam,
The Nilgiris.
- 3.The Public Prosecutor,
High Court, Madras.



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N. ANAND VENKATESH, J.

rsi

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