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Crl.O.P.Nos.24549 of 2019 & etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.Nos.24549, 24552, 24553, 24554, 24556, 24559, 24560, 24565,
24566, 24569, 24573, 24576, 24577, 24579, 24581, 24582, 24585,
24586, 24587 & 24589 of 2019
and
Crl.M.P.Nos.13032, 13035, 13037, 13039, 13041, 13043, 13044,
13047, 13049, 13050, 13054, 13056, 13058, 13061, 13063, 13064,
13068, 13070, 13073 & 13075 of 2019

Crl.O.P.No.24549 of 2019:-

Ghanshyam Kamlashankar Joshi

...Petitioner / A-6

-Vs-

Registrar of Companies,
Shasthri Bhavan,
No.26, Haddows Road,
Chennai – 600 006.

... Respondent

Prayer: Criminal Original petitions filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings of impugned summon dated 14.08.2019 in EOCC Nos.397 of 2017 on the file of the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai and to quash the same.



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For Petitioner : Mr.M.K.S.Sundar
(in all Crl.O.Ps)

For Respondent : Mr.D.Simon,
Additional Central Govt. Standing Counsel
(in all Crl.O.Ps)

COMMON ORDER

All these Criminal Original Petitions have been filed seeking to quash the impugned summon dated 14.08.2019 in EOCC Nos.388 to 407 of 2017 on the file of the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai, for violation of provisions under the Companies Act, 2013, for the Financial Year 2015 – 2016.

2. The learned counsel for the petitioner would submit that the petitioner, who shown as A6, had resigned from the Company on 25.07.2012. Even though the Board had rejected his resignation letter, by letter dated 23.08.2012, the said letter of resignation would establish that he was not the person in-charge and responsible to the affairs of the Company at the relevant point of time.

3. Mr.D.Simon, learned Additional Central Government



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Standing Counsel for the respondent / complainant, submitted that it is the case of the petitioner himself that his resignation was not accepted.

Unless Form – 32 is filed, it cannot be taken that the petitioner is not a Director of the Company. The question as to whether he was in-charge and responsible to the Company for the conduct of his business, is factual and has to be adjudicated only during trial.

4. This Court, on a perusal of the complaint and the rival submissions, finds that though the petitioner had sent his resignation letter on 25.07.2012, the resignation was not accepted by the 1st accused Company. Therefore, it cannot be said that the petitioner was no longer the Director of the Company at the relevant point of time. The question of whether the petitioner was in-charge of and responsible to the 1st accused Company for the conduct of its business at the relevant point of time, is factual and it is for the petitioner to establish that he had no role to play in the affairs of the the company before the trial Court. Hence, this Court is not inclined to entertain these quash petitions. Therefore, all these Criminal Original Petitions are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

5.However, since the petitioner is aged about 75 years, his personal



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appearance before the trial Court is dispensed with, unless the learned Magistrate considers his presence necessary for the progress of the trial.

26.04.2023

smv

Index : Yes/No

Netural Citation : Yes / No

Speaking order : Yes / No

To,

1.Registrar of Companies,
Shasthri Bhavan,
No.26, Haddows Road,
Chennai – 600 006.

2.The Additional Chief Metropolitan Magistrate, EO-I,
Egmore, Chennai.

SUNDER MOHAN,J.

smv



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Crl.O.P.Nos.24549 of 2019 & etc., batch

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