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CrI.O.P.Nos.26601 to 26604 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.Nos.26601 to 26604 of 2017 and
CrI.M.P.Nos.15297 to 15304 of 2017

CrI.OP.No.26601 of 2017

Dattatraya Murari Shirodkar

... Petitioner

Vs.

The Deputy Registrar of Companies, Tamilnadu,
Having Office at Shastri Bhavan,
26, Haddows Road, Chennai 600 006

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in EOCC.No.402 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, EO 1, Chennai-3 and to quash the same.

For Petitioner

: Mr.E.Hariharan
for Mr.P.T.Rakesh

For Respondent

: Mr.K.Ramamoorthy,
Central Government Standing Counsel

CrI.OP.No.26602 of 2017

Dattatraya Murari Shirodkar

... Petitioner

Vs.

The Deputy Registrar of Companies, Tamilnadu,



CrI.O.P.Nos.26601 to 26604 of 2017

Having Office at ShastriBhavan,
26, Haddows Road, Chennai 600 006

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in EOCC.No.395 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, EO 1, Chennai-3 and to quash the same.

For Petitioner : Mr.E.Hariharan
for Mr.P.T.Rakesh

For Respondent : Mr.K.Ramamoorthy,
Central Government Standing Counsel

CrI.OP.No.26603 of 2017

Dattatraya Murari Shirodkar

... Petitioner

Vs.

The Deputy Registrar of Companies, Tamilnadu,
Having Office at ShastriBhavan,
26, Haddows Road, Chennai 600 006

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in EOCC.No.396 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, EO 1, Chennai-3 and to quash the same.

For Petitioner : Mr.E.Hariharan
for Mr.P.T.Rakesh

For Respondent : Mr.K.Ramamoorthy,
Central Government Standing Counsel



CrI.O.P.Nos.26601 to 26604 of 2017

CrI.OP.No.26604 of 2017

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Dattatraya Murari Shirodkar

... Petitioner

Vs.

The Deputy Registrar of Companies, Tamilnadu,
Having Office at Shastri Bhavan,
26, Haddows Road, Chennai 600 006

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in EOCC.No.401 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, EO 1, Chennai-3 and to quash the same.

For Petitioner

: Mr.E.Hariharan
for Mr.P.T.Rakesh

For Respondent

: Mr.K.Ramamoorthy,
Central Government Standing Counsel

COMMON ORDER

These criminal original petitions have been filed to quash the proceedings in EOCC.Nos.395, 396, 401 & 402 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, EO 1, Chennai-3 taken cognizance for the offence under Section 159 r/w 162 of Companies Act, 1956.

2. Heard, the learned counsel appearing on either side.



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3. The petitioner in all the petitions are the same. Already one of the proceedings against the petitioner in EOCC.No.405 of 2017 filed against the petitioner, which was taken cognizance for the offence under Section 159 r/w 162 of Companies Act, 1956, was quashed by this Court in Crl.OP.No.6845 of 2018. The entire order is extracted hereunder:

“This Petition has been filed to quash the proceedings initiated by the Respondent for the alleged violations in conducting Annual General Body Meeting and filing Balance Sheet in time as stipulated in the Companies Act 1956.

2. This Petitioner is arrayed as Accused No.5 in EOCC No.405 of 2017. The main contention of the learned counsel for the Petitioner is that the Petitioner is an independent Director, he was nominated and hence he is not responsible for any act by the other Directors to constitute an offence under Companies Act 1956. Hence he sought to quash the proceedings.

3. Counter affidavit has been filed by the Respondent, wherein para 5 clearly stated as follows:

?”5. The Respondent humbly submits that petitioner/5th Accused is not liable for any act or commission by the company or by any officers of the company which constitute a breach or violation of any provision of the Companies Act, vide Section 14(12) of the Companies Act, 2013 and also in tune with the General Circular No.08/2011 issued by the Ministry of



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Corporate Affairs.? ”

4. As the Respondent himself admitted that the Petitioner is independent director, he is not responsible for any act or commission by the company. Further, merely because they are nominated himself as a Director, he cannot be prosecuted for the alleged violation. In such a view of the matter, the proceedings initiated against the Petitioner is quashed.

5. In the result, the Criminal Original Petition is Ordered. Consequently, connected Miscellaneous Petitions are closed.

Therefore, the present proceedings are also liable to be quashed.

4. Accordingly, the entire proceedings in EOCC.Nos.395, 396, 401 & 402 of 2017 on the file of the Additional Chief Metropolitan Magistrate Court, EO 1, Chennai are quashed as against the petitioner and all the criminal original petitions are allowed. Consequently, connected miscellaneous petitions are closed.

05.10.2023

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Additional Chief Metropolitan Magistrate Court,
EO 1, Chennai-3
- 2.The Deputy Registrar of Companies, Tamilnadu,
Having Office at ShastriBhavan,
26, Haddows Road, Chennai 600 006
- 3.The Public Prosecutor,
High Court of Madras

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