



WEB COPY



CrI.O.P.No.2291 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.2291 of 2024

And

CrI.M.P.Nos.1667 and 1669 of 2024

Venkateswaralu Meruv

... Petitioner

Vs.

D.Rohini

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records and quash the entire proceedings against the petitioner in E.O.C.C.No.105 of 2018 pending on the file of the Additional Chief Metropolitan Magistrate, E.O.I., Egmore, Chennai.

For Petitioner : Mr.Sarath Chandran
for M/s.K.Alakendran

O R D E R

This petition has been filed to quash the proceedings in E.O.C.C.No.105 of 2018 pending on the file of the Additional Chief Metropolitan Magistrate, E.O.I., Egmore, Chennai.



CrI.O.P.No.2291 of 2024

2.The petitioner has been arrayed as A5 in this case. The petitioner has been shown to be the Director of A1 company. The complaint has been filed by the respondent for the offence under Section 276B read with 278(b) of the Income Tax Act. The alleged default is said to have been committed during the financial year 2012-2013 and assessment year 2013-2014.

3.The learned counsel for the petitioner submitted that it is clear from the sanction order that was passed by the Commissioner of Income Tax through proceedings dated 07.03.2017 that only the company and one Ramakrishna Reddu Gorrepati who is the Managing Director of the company are identified to be the accused persons who have committed default. It was further contended that the petitioner was appointed as the Additional Director of A1 company only on 31.03.2014. Therefore, at the time of the alleged default committed during the financial year 2012-2013, the petitioner was not even the Director of the company and this position has been further confirmed by the sanction order passed by the Commissioner of Income Tax. Hence, the very jurisdiction of the Court below to proceed further with



CrI.O.P.No.2291 of 2024

the complaint as against the petitioner (A5) in the absence of sanction was canvassed before this Court.

4.It is also brought to the notice of this Court that the warrant trial has now crossed the stage of Section 242 of Cr.P.C. and the questioning under Section 313 (1)(b) of Cr.P.C. is also complete.

5.In the considered view of this Court, at this advanced stage of trial, this Court is not inclined to exercise its jurisdiction under Section 482 of Cr.P.C. If ultimately, the lack of sanction against the petitioner is the main ground that is projected, the same has to be necessarily taken into consideration by the Court below since the prosecution against the petitioner without a valid sanction and that too for a default that is said to have been committed even before the petitioner was made as the Additional Director, goes to the very root of the matter. This issue has to be necessarily considered by the Court below in this case.

6.In the light of the above discussion, the presence of the petitioner is dispensed with and he shall appear before the Court below



CrI.O.P.No.2291 of 2024

at the time of questioning under Section 313 (1)(b) of Cr.P.C. and at the time of final judgement. The proceedings in E.O.C.C.No.105 of 2018 shall be disposed of by the Court below within a period of two months from the date of receipt of a copy of this order.

7.This criminal original petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

19.02.2024

pri

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Additional Chief Metropolitan Magistrate,
E.O.I., Egmore, Chennai

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



WEB COPY



CrI.O.P.No.2291 of 2024

N.ANAND VENKATESH,J.
pri

CrI.O.P.No.2291 of 2024
And
CrI.M.P.Nos.1667 and 1669 of 2024

19.02.2024