



Crl.R.C.No.430 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 3/12/2024

C O R A M

THE HONOURABLE Mr.JUSTICE SUNDER MOHAN

Crl.R.C.No.430 of 2023

The Assistant Commissioner of Income Tax
Circle – I, No.3 Gandhi Road
Salem 636 007.

...

Petitioner

Vs

1. M/s.Swathy Smart Cards Hi-Tech Private Ltd
A1/B2 Bharathi Street
MKS Complex, Opp to Gowari Theatre
5-Road
Salem 636 004.

2. M. Sekar

...

Respondents

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure and set aside the order dated 29/11/2022 passed in C.C.No.1 of 2017 on the file of the learned Chief Judicial Magistrate, Salem.

For petitioner ... No appearance

For respondents ... Not ready in notice

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ORDER

This Criminal Revision Case challenges the order passed by the learned Magistrate in dismissing the complaint filed by the petitioner.

2. The petitioner had filed a complaint against the respondents for the offences under Section 276 CC r/w. 278 B of the Income Tax Act, 1961 for the assessment year 2013 – 2014. The sum and substance of the complaint is that during the financial year 2012 – 2013, which is the assessment year 2013 – 2014, accused had made several deposits and also purchased motor vehicles and did not however, file the return of income.

3. The learned Magistrate by the impugned order held that the first accused Company was wound up by the order of this Court in Company Petition No.123 of 2013 dated 7/4/2014 and as per Section 279 of the Companies Act, when winding up order is passed, no legal proceedings can be commenced without the leave of the Tribunal and that the petitioner herein had not obtained permission from the Tribunal and since the case is pending from 2007, and dismissed the complaint.



Crl.R.C.No.430 of 2023

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4. Though this case was listed on 21/12/2024, there was no representation on behalf of the petitioner and hence, this Court directed the Registry to list the matter today under the caption “for orders”. Even today, there was no representation on behalf of the petitioner.

5. On a perusal of the impugned order, this Court finds that the petitioner had not obtained leave for initiating proceedings against the respondent, although the first respondent Company was wound up by the order of this Court in Company Petition No.123 of 2013 dated 7/4/2014. Since the petitioner has not complied with the provisions of Section 279 of the Companies Act, 2013, this Court is of the view that order impugned passed by the learned Chief Judicial Magistrate, Salem does not call for any interference.

6. Accordingly, this Criminal Revision Case is dismissed.

3/12/2024

mvs.

Index: Yes/No



Crl.R.C.No.430 of 2023

Neutral Citation: Yes/No

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SUNDER MOHAN, J

mvs.

To

The Chief Judicial Magistrate, Salem.

Crl.R.C.No.430 of 2023

3/12/2024