IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRL.O.P.Nos.11152, 11155 & 11157 of 2019
and
CRL.M.P.Nos.5669, 5673 & 5676 of 2019

N.Sasikala ... Petitioner in 3 Crl.OPs

Vs.

1.The Assistant Director,
Enforcement Directorate,
Government of India,
Shasthri Bhavan,
26, Haddows Road,
Chennai 600 006. ... Respondent in Crl.OP.No.11152/2019

2.The Chief Enforcement Officer,
Enforcement Directorate,
Government of India,
Shasthri Bhavan,
Chennai 600 006. ... Respondent in Crl.OP.No.11155/2019

3.The Assistant Director,
Enforcement Directorate,

Government of India,
Shasthri Bhavan,
IIIrd Floor, IIIrd Block,
26, Haddows Road,
Chennai 600 006. ... Respondent
in Crl.OP.No.11157/2019

Prayer in Crl.OP.No.11152/2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to set aside the questions dated on 20.12.2018 put to A3 under Section 246(2) Cr.P.C in CC No.163 of 1996 on the file of Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai requiring her to answer for A1 the company, when A2 as Managing Director of the Company had already been questioned, as representing first accused company by altering the cause title by including Accused 3 has represented the company in the cause title, which is even contrary to the cause title as was filed by the complainant and the said proceeding had became final.

Prayer in Crl.OP.No.11155/2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to set aside the questions dated on 28.01.2019 put to A3 under Section 246(2) Cr.P.C in E.O.CC No.17 of 1997 on the file of Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai requiring her to answer for A1 the company, when A2 as Managing Director of the Company had already been questioned, as representing first accused company by altering the cause title by including Accused 3 has represented the company in the cause title, which is even contrary to the cause title as was filed by the complainant and the said proceeding had became final.

Prayer in Crl.OP.No.11157/2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to set aside the questions dated on 20.12.2018 put to A3 under Section 246(2) Cr.P.C in E.O.CC No.44 of 1998 on the file of Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai requiring her to answer for A1 the company, when A2 as Managing Director of the Company had already been questioned, as representing first accused company by altering the cause title by including Accused 3 has represented the company in the cause title, which is even contrary to the cause title as was filed by the complainant and the said proceeding had became final.

For Petitioner	: Mr.B.Kumar Senior Counsel For Mr.A.Asokan (in 3 Crl.OPs)
For Respondents	: Mr.Rajnish Pathiyil Special Public Prosecutor [For Enforcement Directorate] (in 3 Crl.OPs)

O R D E R

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The present petitions on hand have been instituted under Section 482 of Criminal Procedure Code (Cr.P.C.) to set aside the questions dated 20.12.2008 and 28.01.2019 put to A3 under Section 242 Cr.P.C. in C.C.No.163 of 1996, E.O.C.C.No.17 of 1997 and E.O.C.C.No.44 of 1998 respectively pending before the Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai. These questions require A3 to answer on behalf of A1, the Company, despite A2, the Managing Director of the Company having already been questioned. Further, the cause title has been altered to include A3, representing first accused company, which is contrary to the original cause title as filed by the complainant. Moreover, the said proceeding had already attained finality.

2. The complaint filed by the Chief Enforcement Officer, Enforcement Directorate in C.C.No.17 of 1997, reveals that the first accused is M/s.J.Jay TV Private Limited represented by its Managing Director, Mr.V.Baskaran. Notably, Mr.V.Baskaran, Managing Director M/s.J.Jay TV Private Limited is listed as Accused No.2. Additionally, Accused No.3 is Mrs.N.Sasikala, who

holds the positions of Chairperson and Director of M/s.J.Jay TV Private Limited.

3. Mr.B.Kumar, the learned Senior Counsel appearing on behalf of the petitioner would solicit our attention with reference to the proceedings of the Economic Offences Court, Egmore, wherein the description of accused are stated as follows:

எதிரிகளின் பெயர்கள் 1. M/s.J.Jay T.V.Pvt.Ltd., நிறுவனம்

சார்பில் அதன் நிர்வாக இயக்குநர் ஏ,பாஸ்கரன் மற்றும் அதன் தலைவர் இயக்குநர் டி சூ,சசிகலா

2. ஏ,பாஸ்கரன்

M/s.J.Jay T.V.Pvt.Ltd., நிறுவனத்தின் நிர்வாக இயக்குநர்

3. சூ,சசிகலா

M/s.J.Jay T.V.Pvt.Ltd., நிறுவனத்தின் தலைவர் மற்றும் இயக்குநர்

4. The learned Senior counsel raising an exception that the cause title set out in the said proceedings is not in consonance with the complaint filed by the Chief Enforcement Officer, Enforcement Directorate. Therefore, he would submit that the said cause title is to be set aside and necessary corrections are to be made.

5. Mr.R.Rajnish Pathiyil, learned Special Public Prosecutor appearing on behalf of the Enforcement Directorate would oppose by stating that there is no error or confusion in respect of the descriptions regarding the accused persons in any of the proceedings. More so, even if such an error existed, it would not cause prejudice to the accused persons, since Sections 67 and 68 of the Foreign Exchange Regulations Act, 1973, unambiguously stipulates that "Where a person commuting a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time of the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly".

6. The learned Special Public Prosecutor would refer the complaint filed by the Chief Enforcement Officer in C.C.No.17 of 1997. The cause title in the complaint is extracted hereunder:

"Chief Enforcement Officer,

Enforcement Directorate,
Government of India,
Shastri Bhavan,
Chennai – 600 006. ... Complainant

Vs.

1.M/s.J.Jay T.V. Pvt. Ltd.,
No.68/69, Habibullah Road,
T.Nagar, Chennai – 600 017.
represented by its Managing Director,
Shri V.Bhaskaran, Aged 31 years. ... Accused -1

2.Shri V.Bhaskaran, Aged 31 years,
Managing Director,
M/s.J.Jay T.V. Pvt. Ltd.,
No.68/69, Habibullah Road,
T.Nagar, Chennai – 600 017.

Res: No.9, Kasturi Estate,
1st Street, Alwarpet, Chennai – 600 018 ... Accused -2
(Presently at Central Prison, Palayamkottai)

3.Smt.N.Sasikala, Aged 43 years,
Chairperson and Director,
M/s.J.Jay T.V. Pvt. Ltd.,
No.68/69, Habibullah Road,
T.Nagar, Chennai – 600 017.

Res: No.18 III Cross Street
East Abiramapuram, Chennai – 600 018 ... Accused -3
(Presently at Central Prison, Chennai)"

7. With reference to the complaint, the learned Special Public Prosecutor further relied on paragraph 19 of the complaint, which reads as under:

> "**19.** On the basis of the facts mentioned herein above the complainant submits that the accused company represented by Managing Director (Accused 2) and Chairperson & Director (Accused 3) persons resident in India other than an authorised dealer in foreign exchange have contravened the provisions of
>
> (i) Sec. 8(1) of the Foreign Exchange Regulation Act, 1973 by otherwise acquiring and transferring during 1996 Sing. $ 10,45,000/- to M/s. Appooffez Point Pvt. Ltd., Singapore through the medium of Shri K.Ramachandran, Singapore, a person resident outside India, who is not an authorised dealer in foreign exchange in India without the previous general or special permission of the Reserve Bank of India.
>
> (ii) Sec. 9(1) (a) of the Foreign Exchange Regulation Act, 1973 for making payments of Sing. $ 10,45,000/- to Shri K.Ramachandran, a person resident outside India, U.S. $ 4,00,000/- to M/s. INTERSPUINIK, U.S.A., Sing. $ 49,000/- to M/s. Singapore Telecom Service, Singapore and other payments to various persons in A11 equivalent to Sing. $ 10,45,000/- to persons resident outside India without the general or special exemption from the Reserve Bank of India."

8. We have considered the arguments. Perusal of the description in the proceedings of the Economic Offences Court, which are impugned in the

present petitions. We do not find any infirmity warranting interference of this Court by invoking Section 482 of the Criminal Procedure Code.

9. Accused No.1 is the company namely M/s.J.Jay TV Private Limited, represented by its Managing Director Mr.V.Baskaran. Accused No.2 is Mr.V.Baskaran, Managing Director of M/s.J.Jay TV Private Limited. Accused No.3 is Mrs.N.Sasikala, Chairperson and Director of M/s.J.Jay TV Private Limited. Both A2 and A3 hold responsible positions in the company, which is the first accused in the proceedings. Therefore, there is no confusion or serious error warranting interference from the hands of this Court.

10. Pertinently, the evidence has been completed and the matter is listed for arguments before the Trial Court. The learned Special Public Prosecutor brought to the notice of this Court that the trial has been prolonged and protracted. This Court is of the considered opinion that unnecessary adjournments in criminal trial at no circumstances be considered by the Trial Courts.

11. Once a trial commences in a criminal proceeding, it should proceed uninterruptedly. Section 309 of the Criminal Procedure Code (corresponding

to Section 346 of Bharatiya Nagarik Suraksha Sanhita, 2023) enumerates "Power to postpone or adjourn proceedings". Sub Section (1) to Section 309 Cr.P.C. stipulates "In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded". Therefore, adjournments at no circumstances be allowed in a routine manner by the Trial Court once the trial commenced.

12. Any attempt by any party to a criminal proceeding to prolong and protract at no circumstances be allowed by the Courts, but all such attempts are to be thwarted. Frequently, this Court witness filing of unnecessary and frivolous applications by the parties in criminal proceedings. Such petitions are often entertained and posted for counter, and detailed orders are passed by the Trial Court without examining, whether these petitions are entertainable under any provisions of law or not.

13. Entertainability or maintainability of any petition is to be considered at the first instance by the Courts and a decision taken without causing undue delay. Only if such petitions are maintainable and

entertainable, then alone further consideration is required, otherwise such petitions are liable to be rejected *in limine.*

14. Certain mistakes, such as errors in recording name or inaccuracies in the cause title or otherwise may be noticed by any of the parties during the course of proceedings. However, such errors are curable and do not cause any prejudice to the accused persons in a criminal trial.

15. In the present case, the company itself is Accused No.1, the Managing Director is Accused No.2, and the Chairperson and Director is Accused No.3. Since all the accused persons are connected to the company (Accused No.1), any error in the cause title, if at all, has not caused any prejudice to the interest of the parties. Therefore, we are unable to agree with the grounds raised by the petitioners in the present petitions.

16. The complaint in C.C.No.163 of 1996 C.C.No.17 of 1997 and C.C.No.44 of 1998 have been pending for the past several years. Already the longevity of the litigation have been increased and therefore, we request the learned Additional Chief Metropolitan Magistrate, Economic Offences I Egmore, Chennai to complete the hearing and dispose of the cases as

expeditiously as possible. The parties are directed to cooperate for the disposal of the cases by avoiding unnecessary adjournments and refraining from filing frivolous petitions.

17. With the above directions, the Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S., J.]　　　　**[M.J.R., J.]**
12.12.2024

Jeni
Index : Yes
Speaking order / Non-speaking order
Neutral Citation : Yes

To

1.The Assistant Director,
Enforcement Directorate,
Government of India,
Shasthri Bhavan,
26, Haddows Road,
Chennai 600 006.

2.The Chief Enforcement Officer,
Enforcement Directorate,
Government of India,
Shasthri Bhavan,
Chennai 600 006.

3.The Assistant Director,
Enforcement Directorate,
Government of India,
Shasthri Bhavan,
IIIrd Floor, IIIrd Block,
26, Haddows Road,
Chennai 600 006.

4.The Special Public Prosecutor,
High Court of Madras.

S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.

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