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Crl.O.P.No.8404 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.8404 of 2022
and
Crl.M.P.Nos.4904 & 4906 of 2022

1. M/s.Asian Bearing Ltd.
No.14, Peters Road,
Royapettah, Chennai-14.

2. Palaniappan Muthu
Managing Director

... Petitioners

Versus

The Deputy Registrar of Companies,
having office at
Shasthri Bhavan,
No.26, Haddows Road,
Chennai-600 006.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the
Code of Criminal Procedure, to call for the records of the complaint in
E.O.C.C.No.266 of 2015 on the file of the learned Addl. Chief
Metropolitan Magistrate, EO-II at Egmore, Chennai and quash the same.



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For Petitioners : Mr.G.Muthukumar
For Respondent : Mr.L.Infant Dinesh,
Central Govt. Standing Counsel

ORDER

This Criminal Original Petition has been filed seeking to quash the complaint filed in E.O.C.C. No. 266 of 2015 on the file of learned Addl. Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai.

2. Heard both sides.

3. The petitioners are ranked as A1 and A2 in a private complaint lodged by the respondent/complainant and the same was taken on file in E.O.C.C.No.266 of 2015 on the file of learned Addl. Chief Metropolitan Magistrate, Egmore, Chennai, and the same is pending. Now, the petitioner had filed this petition praying to quash the said complaint.



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4. According to the complainant, A1 is the company and A2 is a Director of A1 company and a complaint was lodged by the respondent under Sec.149 of Companies Act against them. A2 is Director of the Company when the offence was committed as per the particulars filed in the office of the complainant and they are officers, who are in default within the meaning of Sec.2(60) of the Act. As per the latest audited financial statements by the accused with the complainant, it is seen that the paid up capital of the company is more than 100 crores. As required under the above provision, the accused should have appointed at least one Woman Director as on 01.04.2015. It is observed from the e-records filed by the accused company with this complainant, no Woman Director is appointed in M/s.Asian Bearings Ltd., by the due date. The above said accused company and its Directors have violated the above provision and are thus liable to be punished under Sec.173 of Companies Act, 2013. Furthermore, as per the provisions of Sec.172 of Companies Act, 2013, If a company contravene any of the provisions of this Chapter and for which, no specific punishment is provided therein, the company and every officers of the company, who is in default shall be punishable with



fine, which shall not be less than fifty thousand rupees, but which may extend to five lakh rupees. So, based on that, the petitioners were charges. Now, the petitioners have filed this petition to quash the said complaint.

4. Today, when the matter taken up for hearing, the learned counsel for petitioners would submit that without taking cognizance of the complaint, the Board for Industrial and Financial Reconstruction, Bench-III/MON-III had recommended for winding up of the company. The respondent also aware of winding up proceedings. Hence, he prayed to quash the complaint stating that already the company was wound up and liquidation proceedings was initiated, thereby Official Liquidator was also appointed. To that effect, he produced the copy of order passed by the Board of Industrial and Financial Reconstruction Bench-III/MON-III, wherein the winding up of the company was confirmed.

5. Records perused. On perusal of records, it reveals that as on date, the company was wind up and liquidation proceedings was also initiated. Hence, I do not find any merit in the complaint initiated against the petitioners, since because already the winding-up proceedings was



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confirmed by the Board for Industrial and Financial Reconstruction.

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Accordingly, this Criminal Original Petition is allowed and the proceedings initiated against the petitioners in a complaint in E.O.C.C.No. 266 of 2015 on the file of Addl. Chief Metropolitan Magistrate, E.O.-II at Egmore, Chennai is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

05.02.2024

Index: Yes/No

Internet: Yes/No

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To

1. The Deputy Registrar of Companies,
Shasthri Bhavan,
No.26, Haddows Road,
Chennai-600 006.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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