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Crl.O.P.No. 26706 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.01.2024

CORAM :

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

Crl.O.P.No.26706 of 2022
and
Crl.M.P.Nos.16435 & 16436 of 2022

Ramanathan Nachiappan

... Petitioner

Versus

The Deputy Registrar of Companies, Tamil Nadu,
Having office at Shastri Bhavan,
No.26, Haddows Road, Chennai-600 006.

... Respondent

Criminal Original Petition filed Under Section 482 of the Code of Criminal Procedure, praying to call for the records in E.O.C.C.No.239 of 2013 pending on the file of the Additional Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-8, examine them and quash the complaint.

For Petitioner : Mr.H.Karthik Seshadri
Assisted by Mr.C.Suraj
for Mr.A.M.Ilango

For Respondent : Mr.A.R.Sakthivel
Senior Pannel Counsel



Crl.O.P.No. 26706 of 2022

ORDER

The petitioner has filed this petition to call for the records in E.O.C.C.No.239 of 2013 pending on the file of the Additional Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-8, examine them and quash the complaint.

2. The learned counsel for the petitioner submitted that the petitioner was not holding the Company Secretary post and he was resigned on 31.05.2012. But as per the allegation made by the de-facto complainant in EOCC.No.239 of 2013 he was prosecuted due to non filing of Annual Return by A1's company on or before 30.11.2011 . The charges against the petitioner is that as a Company Secretary, he has not submitted the Annual return on or before 30.10.2012. He further submitted that the petitioner was resigned from the Company on 31.05.2012, so on the alleged dates given by the defacto complaint she was not holding the post of Company Secretary in A1's Company.

3. However, the learned counsel for the respondent admitted that he has resigned on 31.05.2012. Therefore, the proceedings initiated in EOCC.No.239 of 2013 against the petitioner is ordered to be quashed.



4. To support his contention, he relied the case of S.R.Sukumar Vs.

S.Sunaad Raghuram, reported in (2015) 9 Supreme Court Cases 609, in which reads as follows:

“ A Criminal Procedure Code, 1973 – Ss. 190(1)(a), 200,202,203 and 204 – amendment in Criminal complaint – when permissible principles laid down – subsequent events – Amendment seeking to introduce facts based on – Multiplicity of proceedings – Avoidance of – prejudice to other side if likely – consideration of

- Held, although there is no specific provision in CrPC to amend a complaint or a petition filed under CrPC, if amendment sought to be made relates to a simple infirmity which is curable by means of a formal amendment and by allowing such amendment no prejudice would be caused to the other side, Court may permit such amendment to be made – But amendment cannot be allowed if it does not relate to a curable infirmity or infirmity cannot be corrected by a formal amendment or if there is likelihood of prejudice to the other side.”

5. Considering the facts and circumstances, the facts reveals that the petitioner has resigned on 31.05.2012, and the proof also enclosed in the typed set of paper at page 37, that he resigned i.e., on 31.05.2012 and the same also accepted by A1's Company.



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Crl.O.P.No. 26706 of 2022

T.V.THAMILSELVI, J.

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6. Accordingly, this Criminal Original Petition is allowed.
Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

12.01.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No

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To

1. The Additional Chief Metropolitan Magistrate-I,
Economic Offences, Egmore, Chennai-8
2. The Deputy Registrar of Companies, Tamil Nadu,
Having office at Shastri Bhavan,
No.26, Haddows Road, Chennai-600 006.
- 3.The Section Officer,
VR-Section, High Court of Madras.

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