IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM:

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

Crl.O.P.No.26382 & 26384 of 2022
and
Crl.M.P.Nos.16281, 16278, 16283 & 16284 of 2022

Ramanathan Nachiappan
... Petitioner in both Crl.O.P.s

Versus

The Deputy Registrar of Companies,
Tamil Nadu,
Having office at Shastri Bhavan,
No.26, Haddows Road,
Chennai-600 006.
... Respondent in both Crl.O.P.s

PRAYER in Crl.O.P.No. 26382 of 2022 : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in E.O.C.C.No.238 of 2013 on the file of Addl. Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-8 examine them and to quash the complaint in so far as the petitioner is concerned.

PRAYER in Crl.O.P.No. 26384 of 2022 : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in E.O.C.C.No.237 of 2013 on the file of Addl. Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai-8 examine them and to quash the complaint in so far as the petitioner is concerned.

For Petitioner in both Crl.O.P.s	:	Mr.H.Karthik Seshadri, assisted by Mr.C.Suraj for Mr.A.M.Elango
For Respondent in both Crl.O.P.s	:	Mr.A.R.Sakthivel, Special Public Prosecutor

COMMON ORDER

The petitioner had filed these Criminal Original Petitions praying to quash the proceedings in E.O.C.C.Nos. 238 & 237 of 2013 on the file of Addl. Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai respectively in so far as this petitioner concerned against the respondent.

2. Heard both sides.

3. The respondent herein is the Deputy Registrar of Companies, Tamil Nadu. The respondent filed the complaints against the 1st accused

company viz., Agnite Education Limited alleging that the company had not complied with statutory filing i.e. non-filing of balance sheet for the financial year ending 2011 within the stipulated period i.e. on or before 30.10.2011 and 30.11.2011 as specified under Secs.162 of Companies Act respectively. The accused 2 to 4 are Directors of the Company, being the officers, they are in default by not complying the statutory requirement as specified under Sec.220 of Companies Act. Hence, the respondent filed complaints before the Magistrate Court praying to issue summons to the accused and punish them according to law for the above said default.

4. Challenging the said complaints, now the petitioner, who is named as 2nd accused in the said complaint, preferred these petitions to quash the proceedings. The petitioner contended that he was only a Company Secretary of the default company, since his appointment from the year of 2012 and he has resigned from the said company with effect from 31.05.2012, but he was named as one of the Secretary as per the complaints filed by the respondent as such is incorrect one. Further, he would submit that the respondent had suppressed regarding the factum of extension of financial year granted to the 1st accused company with respect to the

financial year ending 2011 until 30.09.2011 and also suppressed regarding the factum of extension to conduct annual general meeting to the 1st accused company with respect to the financial year ending 2011 for the period of three months i.e. upto 30.03.2012. Therefore, the company has not committed any default, since already time was extended. Accordingly, the balance sheet for the financial year of 2011 ought to have been filed on 30.10.2011, but the time was extended only upto 30.09.2011, however, he has resigned from the company on 31.05.2012. Therefore, the 1st accused company cannot be said to have committed default of non-filing of annual returns with the respondent on the alleged date of offence i.e. on 30.10.2011. The time is extended upto 30.03.2012 and within 30 days from the annual general meeting, the balance sheet of the company ought to have been filed, hence, they have not committed any offence, since they had a time upto 30.03.2012. Suppressing all the facts, the respondent gave the complaints and also wrongly described him that he is a Director of company. Therefore, he has not committed any default and prayed to quash the proceedings initiated against him.

5. By way of reply, the learned counsel for respondent would submit that the copy of annual return for the financial year 2010-2011 should have been filed by the complainant within 60 days from the date of AGM in terms of Sec.159 of Companies Act, 1956. It is pertinent to mention that the Annual General Meeting of the company should have been held on 30.03.2012 and the annual report of the company should have been filed by Subject Company on or before 30.05.2012. But, as per the records available in the MCA portal the subject company has not filed its annual return with the complainant for the financial year 2010-2011 till now. Hence, the company and every officer of the company, who is in default shall be punishable under Sec.162 of Companies Act. He would also submit that as per the records available in the MCA portal, the petitioner had resigned from the subject company only on 31.05.2012. Therefore, the petitioner's argument of resigned from the subject company is devoid of merit and also an afterthought and prayed to dismiss these petitions.

6. On perusal of records, in support of arguments of learned counsel for petitioner, the petitioner had produced the copy of the letter dated 05.07.2011 addressed to the respondent Registrar of Companies by the

default company/A1, wherein they are seeking extension of time for the financial year for the period of three months to hold the annual general meeting. The Government of India, Ministry of Corporate Affairs considered their request and extension of AGM for the period of 3 months was extended upto 30.03.2012 vide their letter dated 22.07.2011. But, as per the complaint lodged by the respondents, it is stated that the balance sheet and profit and loss accounts of the company for financial years ending 31.03.2011 and 31.03.2012 were required to be placed in the annual general meeting by a date not later than 30.09.2011 and 30.09.2012 i.e. within six months of the close of the financial year and was further required to be filed with the office of complainant not later than 30.10.2011 and 30.10.2012 i.e. 30 days of the holding of Annual General Meeting. As per the intimation letter submitted by the petitioner, as a company secretary, he had resigned from the company on 30.05.2012. On the date of alleged commission of offence on 30.08.2012, the petitioner was not holding the Company Secretary Post in the default company. Moreover, as per the complaints, he was cited as one of Director of the Company, but in fact, he is only a Company Secretary. Therefore, the proceedings initiated against him as such is not valid under law. As the 1st accused company had not complied the statutory requirements on the date of alleged offence, as discussed above, the proceedings are liable to be set aside. Accordingly, these Criminal Original Petitions are allowed and the proceedings initiated in E.O.C.C.Nos. 238 & 237 of 2013 on the file of Addl. Chief Metropolitan Magistrate-I, Economic Offences, Egmore, Chennai respectively is ordered to be quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

20.03.2025

Index: Yes/No
Internet: Yes/No
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To

1. Addl. Chief Metropolitan Magistrate-I Economic Offences, Egmore, Chennai.

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

3. The Public Prosecutor, High Court, Madras.

T.V.THAMILSELVI, J.

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