



*CrI.O.P.No.31247 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.03.2026

Pronounced on: 06.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.31247 of 2022 and  
CrI.MP.Nos.19161 & 19162 of 2022

Parthasarathy Srikanth

... Petitioner

Vs.

SECURITIES AND EXCHANGE BOARD OF INDIA,  
REP BY ITS ASSISTANT GENERAL MANAGER,  
DEEPU ANANDAN, OVERSEAS TOWERS,  
NO.756, ANNA SALAI, CHENNAI 600 002

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. to call for the records and quash the proceedings as against the petitioner in CC.No.44 of 2021 on the file of the Principal Sessions Judge at Chennai.

For Petitioner : Mr.S.R.Rajagopal,  
Senior Counsel  
for Mrs.Jayanthi K.Shah

For Respondent : Mr.AR.L.Sundaresan,  
Senior Counsel  
for M/s.Shivakumar and Suresh

**ORDER**

This criminal original petition has been filed challenging the proceedings initiated in CC.No.44 of 2021 on the file of the learned  
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Principal Sessions Judge at Chennai.

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2. The respondent filed complaint alleging that on 25.09.2012, the company called M/s.Zylog Systems Limited (hereinafter called as 'the company') had declared dividend to the tune of Rs.16,44,64,200/-. However, the company did not pay the dividend to the shareholders within the stipulated time. Therefore, the respondent issued show cause notice to the company seeking explanation as to why the dividend had not been paid as mandated under the provisions of The Securities and Exchange Board of India (hereinafter called as 'SEBI') Act, 1992 and the Companies Act, 1956 and 2013. On receipt of the same, the company, by its reply dated 20.02.2013, admitted that it had failed to comply with the provisions of the Companies Act related to the opening of the bank account and its failure to pay the dividend to its investors quoting various financial problems and sought time. Further, the company also assured to pay the dividend on or before 30.04.2013. The company had also annexed the details of its Directors as on the date of declaration of the dividend i.e. 25.09.2012 by mentioning their names and addresses. Thereafter, communication dated 25.06.2013, 07.08.2013, 18.12.2013 was sent to the National Stock Exchange of India Limited



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(hereinafter called as 'NSE') at Mumbai and sought for details relating to the failure of the company to pay declared dividends. The NSE replied by its reply dated 08.01.2014 that the said company had not responded to the enquiries made by it. Therefore, the company failed to pay dividend within the prescribed period of 30 days from the date of declaring the dividend. Further, the company is also liable to pay interest at the rate of 18% during the period for which the default continues thereby the company violated the procedures and stipulations and the same is punishable under Section 207 of the Companies Act, 1956 / Section 127 of the Companies Act, 2013 with regard to payment of dividend and also interest. After obtaining sanction to prosecute the accused, the respondent filed complaint and the trial court had taken cognizance for the offence punishable under Section 24(1) of the SEBI Act r/w Section 207 of the Companies Act, 1956 and Section 127 of the Companies Act, 2013 in CC.No.44 of 2021.

3. The learned Senior Counsel appearing for the petitioner submits that there are totally seven accused, in which the petitioner is arrayed as A3. He is the Executive Director of the Company. The complaint has been filed belatedly i.e. after two years from the date of the



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alleged default. Therefore, it is barred by limitation as contemplated under Section 468 of Cr.P.C. Further, the petitioner was not issued with show cause notice and as such, there is absolutely no cause of action to file complaint by the respondent as against the accused. Though the petitioner was appointed as Executive Director of the Company, as per the terms and conditions of his appointment, the petitioner shall not be involved in the day to day affairs or activities of the company. He shall not be required to take part in the management of the company and his roles shall be restricted to attending the capital market initiatives of the company. Further, he submits that the company was not implicated as an accused and it is clear violation of the Companies Act. It is akin to the provisions under Section 141 of NI Act. Therefore, when a complaint is filed as against the Directors, the company shall be implicated as an accused to maintain the complaint. He further submits that a similarly placed accused approached this Court to quash the entire complaint and the same was allowed by this Court in Crl.OP.No.16374 of 2022. Further, he also relied upon the judgment of the Hon'ble Supreme Court of India in support of his contention with regards to the provisions under Sections 138 and 141 of Negotiable Instruments Act. He further submitted that as per Section 127(2) of the Companies Act, no meeting was conducted by the Committee to submit report. Therefore, without any

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report, the petitioner cannot be prosecuted under Section 127 of the Companies Act.

4. Per contra, the learned Senior Counsel appearing for the respondent submits that the respondent did not file any appeal against the order passed by this Court in CrI.OP.No.16374 of 2022 since the petitioner in that petition is only a Nominee Director of the company and as such, he did not have any specific role to play on behalf of the company, whereas insofar as the petitioner, he was appointed as Executive Director of the company and as per his specific role according to his appointment order, he has to look after the capital market initiatives of the company. Therefore, he is directly involved in the affairs in respect of the shareholders of the company and on his instruction, the company declared the dividend in favour of the shareholders. Therefore, he is a key person in deciding the affairs of the company. In fact, the petitioner is also a member of the Audit Committee to look after the dividends as declared by the company. Further, the company need not be added as accused since the provision under Negotiable Instruments Act is not at all applicable to the case on hand. There is no question of vicarious liability. When the offence is committed by the company, all the Directors are held



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responsible. Further to prosecute the Directors, there is no need to issue any show cause notice. Nowhere it is contemplated that the accused must be served with show cause notice before initiation of the complaint. However, the company was issued show cause notice and the company also replied by seeking further time to settle the dividends to the shareholders. Therefore, the complaint is very much maintainable without issuance of any show cause notice. Insofar as the limitation is concerned, the SEBI Act is applicable to lodge complaint. The offence under Section 127 of the Companies Act is continuous offence and as such, there is no limitation to lodge complaint. Each and every day is calculated for not settling the dividend to the shareholders as offence and the company shall be held liable for the same. Even though the company is not a necessary party to the prosecution, the respondent had already filed petition to implead the company as an accused and it is pending for adjudication before the trial court. Therefore, he prayed for dismissal of the quash petition.

5. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.



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6. On perusal of the records and also on the submissions of the learned counsels appearing on either side, it is revealed that there are totally seven accused in which the petitioner is arrayed as A3. The petitioner was appointed as Executive Director of the company by an order dated 10.05.2010 by the company. His role is specifically mentioned in his appointment order that he shall be restricted to attending capital market initiatives of the company. It means that he is the key person to deal with the shareholders with regards to disbursal of dividends to the shareholders as declared by the Directors and company. Admittedly, the company declared the dividends in favour of its shareholders. However, the company failed to pay the promised dividends to the shareholders within a period of 30 days from the date of declaration of dividends as contemplated under Section 207 of the Companies Act / 127 of the New Act, 2013. The company had declared dividends in the year 2011-2012 to the tune of Rs.16,44,64,200/- on 25.09.2012. On receipt of the complaint from the investors alleging that the company did not pay the declared dividends, the company was issued with show cause notice dated 13.02.2013 seeking information about the disbursal of dividends as contemplated under Section 11(2)(i) of the SEBI Act. On receipt of the same, the company also replied by the reply dated 20.02.2013 thereby admitting the dividends declared by the company and

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sought for time to settle the dividend on or before 30.04.2013. However the company failed to settle the dividends to its shareholders. Therefore, it is clear violation of the provisions under Section 207 of the Old Act and 127 of the New Act. The company is also liable to pay interest at the rate of 18% per annum during the period for which the default continues. Under the SEBI Act, it is nowhere stated that before initiation of prosecution, the company shall be served with show cause notice. Therefore, to initiate prosecution for violation of the provisions under Section 207 of the Old Act and 127 of the New Act, there is no need to serve any show cause notice to the company or its Directors.

7. Insofar as the limitation is concerned, as rightly pointed out by the learned Senior Counsel, it is a continuous offence since after a period of 30 days every day shall be counted for interest for non payment of dividends to the shareholders. Therefore, the provisions under Section 468 of Cr.P.C. is not at all applicable to the case on hand. Insofar as the issue of non-impleadment of the company as an accused is concerned, the provisions under Section 141 of the NI Act is not at all applicable to the case on hand for the simple reason that any contravention under the Companies Act shall be governed by the Companies Act. Further, this



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Court considered the case of one of the accused who was a Nominee

Director of the company and did not have any role to play for the contravention under Section 207 of the Old Act and 127 of the New Act and quashed the entire proceedings as against the said Nominee Director i.e. the 7<sup>th</sup> accused. But the same would not be applicable to the petitioner since he was appointed as an Executive Director and his specific role in the company is to attend capital market initiatives of the company.

8. In view of the above, this Court finds no grounds to quash the entire impugned proceedings in respect of the petitioner. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No  
Neutral citation : Yes/No  
Speaking/non-speaking order  
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**G.K.ILANTHIRAIYAN, J.**

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To

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