

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1091 OF 2017
(Arising out of S.L.P. (Cri.) No. 3398 of 2015)

D.B. Negandhi ... Appellant

Versus

Registrar of Companies ...Respondent

ORDER

Leave granted.

2. This appeal is directed against order dated 16.01.2015, passed by the High Court of Karnataka in Criminal Petition No. 5890 of 2010 whereby the petition filed under Section 482 of Criminal Procedure Code (CrPC) was dismissed.

3. Brief facts of the case are that a criminal complaint was filed by the Registrar of Companies against the Directors of M/s. Cauveri Software Engineering Systems Ltd, a Company incorporated on 08.01.1991, for failure to lay before the Company in Annual General Meeting held on 28.02.2005 the balance sheet and profit and loss account for the period required under sub-sections (1) and (3) of Section 210 of the Companies Act, 1956 (for short 'the Act'). The appellant was stated to be one of the Directors of the Company. The said proceedings (C.C. No. 108 of 2006), pending before the Special Court (Economic Offences), Bangalore, were challenged in 482 petition before the High Court on the ground that though the appellant was inducted as Director of the Company in 1991, but owing to his ill-health he resigned from the post of Director with effect from 31.05.1997.

4. Learned counsel for the appellant pointed out that the resignation of the appellant was accepted on 16.06.1997 in the meeting of Board of Directors of the Company, and the Registrar of Companies was informed of the same by filing

Form No. 32 in terms of Section 303(2) of the Act. Learned counsel further pointed out that the appellant, an advocate, is more than eighty years of age and suffering from various serious ailments. It is submitted that it is nothing but harassment of the accused, who had not been the director of the Company since 1997, with regard to alleged meeting held in 2005. It is lastly pointed out that the other five similar complaints as against the appellant, which are in respect of the meetings held on the dates subsequent to 1997, have already been quashed by the High Court.

5. The perusal of the record shows that copy of the letter dated 16.06.1997 (Annexure P-2) regarding information of acceptance of resignation in the meeting of the Board of Directors of the Company, and the letter addressed to Registrar of Companies on that date along with Form 32 (Annexure P-3) are on the record, and no counter affidavit has been filed to dispute the same.

6. We have also perused copies of order passed by the High Court on 06.11.2014 (in Criminal Petition Nos. 5893 of 2010,

5894 of 2010, 5896 of 2010 and 5897 of 2010) and order dated 07.11.2014 in Criminal Petition No. 5895 of 2010 whereby the similar proceedings are quashed by the High Court in respect of the appellant, and the said orders have already attained finality.

7. In the above circumstances, we are inclined to accept the argument that the High Court erred in not quashing the criminal proceedings in question. Accordingly the appeal is allowed. The criminal proceedings in respect of C.C. No. 108 of 2006 pending against the appellant before the Special Court (Economic Offences), Bangalore, are quashed.

.....J.
[N.V. RAMANA]

.....J.
[PRAFULLA C. PANT]

New Delhi;
July 07, 2017.

ITEM NO.30

COURT NO.9

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3398/2015

(Arising out of impugned final judgment and order dated 16-01-2015 in
CRLP No. 5890/2010 passed by the High Court Of Karnataka At Bengaluru)

D.B. NEGANDHI

Petitioner(s)

VERSUS

REGISTRAR OF COMPANIES

Respondent(s)

Date : 07-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. Mahesh Agarwal, Adv.

Mr. Ankur Saigal, Adv.

Mr. Munjaal Bhatt, Adv.

Ms. Abha Saigal, Adv.

For E. C. Agrawala, AOR

For Respondent(s)

Mr. Tushar Mehta, ASG

Ms. Swarupama Chaturvedi, Adv.

Mr. Rajat Nair, Adv.

Mr. M.K. Maroria, AOR

Sushma Suri, AOR (Not present)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(SUKHBIR PAUL KAUR)
AR CUM PS

(S. SIVARAMAKRISHNA)
ASST.REGISTRAR

(Signed order is placed on the file)