

In Re : Soma Veerappa

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Court : Chennai

Decided On : Dec-07-1962

Reported in : 1965CriLJ392

Judge : Sadasivam, J.

Appellant : In Re : Soma Veerappa

Judgement :

ORDER

Sadasivam, J.

1. Petitioner Soma Veerappa the second accused in C.C. Nos. 8522 to 8528 of 1962 on the file of the Eighth Presidency Magistrate, Madras, has filed this petition to revise the order of the Eighth Presidency Magistrate rejecting his petition under Section 403, Criminal Procedure Code. Petitioner is the managing director of Tiruvalluvar Velanmai Kazhagam (Pt) Ltd, At the instance on a shareholder, he was prosecuted for offences under Section 159 read with, Sections 162 and 223 of the Companies Act; in C.C. No. 1 of 1961, on the file of the Additional First Class Magistrate, Devakottai for failure to submit annual return and balance sheet for the period 1956-1960; and he was acquitted in that case. P.W. 2 in that case was a clerk in the office of the Registrar of Companies. The present prosecution against the petitioner and others is for the same offences for the period between 1956 and 1959. The learned Eighth Presidency Magistrate has rejected the plea of autrefois

acquittal raised by the petitioner on two grounds, and, in my opinion, both the grounds are untenable. The first ground is that the period during which the petitioner failed to submit annual return and balance sheet is different. The prior prosecution was for the period 1955-60 and it covers the period of the prosecution in the present case. If the petitioner had been prosecuted for the subsequent period, namely, from 1960 onwards, it could be said that the period of prosecution is different. The second ground is that the offence is a continuing one. Under Section 162 of the Companies Act, if a company fails to comply with any of the provisions contained in Sections 159, 160 or 161 of the Companies Act, every officer of the company who is in default shall be punishable with fine of Rs. 50 for every day during which the default continues. The company would be committing offences as soon as it fails to submit annual return for balance sheet, and it is liable to be prosecuted; But if in spite of conviction the company fails to comply with the provisions of the Act, it is liable to be punished with a fine of Rs. 50 for each day's default. But in this case, the petitioner has been acquitted of the offences under Section 162 and 220 of the Companies Act and there is no question of further default. The plea of acquittal raised by the petitioner is well founded and it is upheld so far as the present prosecution against the petitioner is concerned. The criminal revision case is allowed.

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