

(1991) 12 MAD CK 0047

In the Madras High Court

Case No : Criminal Miscellaneous Petition No. 9505 of 1989

Hindustan Produce and Co.

APPELLANT

Vs

The Assistant Director, Enforcement Directorate, Southern
Zone

RESPONDENT

Date of Decision : 30-12-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Foreign Exchange Regulation Act, 1973 — Section 57

Citation : (1992) 40 ECC 201

Hon'ble Judges : Arunachalam, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arunachalam, J.—In this petition preferred u/s 482 Cr. P.C. the prayer is to call for the records and quash the complaint in E.O.C.C. No. 768 of 1988, pending on the file of the Additional Chief Metropolitan Magistrate, Egmore, Madras, in the interests of justice. The petitioner is being prosecuted on a complaint filed by the respondent u/s 57 of the Foreign Exchange Regulation Act. The Special Director of Enforcement initiated adjudication proceedings against the petitioner, the company and its partner J.P. Agarwal. A penalty of Rs. 30,000/- was imposed on the petitioner-company. The petitioner was directed to deposit the penalty imposed within 45 days from the date of the receipt of the said order. The petitioner preferred an appeal before the Foreign Exchange Regulation Appellate Board, which was dismissed on 1.5.1987. It was subsequently, that the present prosecution was initiated.

2. Mr. P.R. Raman, learned Counsel representing the petitioner fairly stated that J.P. Agarwal in his individual capacity on the penalty imposed on him, had preferred a Civil Miscellaneous Appeal before this Court and had obtained stay of operation of the order of the Adjudicating Authority, confirmed by the Appellate Board. On the said fact being brought to the notice of the learned Magistrate, the

prosecution as against him individually, had not been taken up, pending decision, in the Civil Miscellaneous Appeal. However, a Civil Miscellaneous Appeal filed on behalf of the petitioner has not yet been numbered. Though quite a long period had elapsed, since the dismissal of the appeal by the Foreign Exchange Regulation Appellate Board, the learned Counsel pleaded for some time to facilitate his getting orders in the Civil Miscellaneous Appeal, sought to be brought up for hearing, on behalf of the petitioner, before this Court.

3. At the time when the complaint was filed as well as at this point of time, it is prima facie apparent that the petitioner, has violated the provisions of the Foreign Exchange Regulation Act. Hence, no ground has been made out for quashing the pending prosecution. In the event of the petitioner obtaining any order of stay from this Court, it will always be open to the petitioner to produce such order before the learned Magistrate, as he had done in the case of J.P. Agarwal, a partner of the petitioner-company. With this observation, this petition, which has no merit, shall stand dismissed.