(1936) 12 MAD CK 0042

In the Madras High Court

In Re: N.V.L. Narasimha Rao and Others

Date of Decision : 11-12-1936

Acts Referred:

Citation : AIR 1937 Mad 341 : (1937) 45 LW 242

Hon'ble Judges : Pandrang Row, J

Bench : Division Bench

Judgement

Pandrang Row, J.—These revision petitions arise out of ten connected cases tried by the Sub-Divisional Magistrate of Guntur in respect of offences punishable Under Sections 131(4) and 134(4), Companies Act, 1913. Cases Nos. 345 to 349 are in respect of offences punishable u/s 134 and the others are in respect of offences punishable u/s 131 and they relate to the five years, 1921 to 1925. Section 134 relates to the non-sending of a copy of the balance-sheet after it had been laid before a general meeting of the company. Section 131 relates to the auditing of the balance-sheet of the accounts of the company and placing the same before a general meeting of the company. It is obvious to my mind that in respect of the same years the same persons cannot be charged with offences punishable both Under Sections 131 and 134 because Section 134 clearly contemplates the sending of a copy of the balance-sheet only after it has been placed or laid before the company at a general meeting, and where, as in this case as is seen from the prosecutions u/s 131, there was no such placing of the balance-sheet before the company at a general meeting the offence u/s 134 cannot possibly have been committed. I am therefore of opinion that the convictions u/s 134(4), Companies Act in these cases, that is to say, the convictions concerned in Criminal Revision Cases Nos. 345 to 349 are wrong and must be set aside.

2. The convictions and sentences in these cases are accordingly set aside and the petitioners in these cases are acquitted of the offences charged against them in these cases and the fines, if any, paid by them must be refunded. As regards the other set of cases u/s 131 of the Act, I am of opinion that so far as the petitioners 2 and 3 are concerned, they cannot be held liable in respect of the

default made in preparing a balance-sheet or placing it before a general meeting of the company which took place long before they ever became directors or officers of the company, and indeed before they were even share-holders. The view to the contrary entertained by the learned Magistrate is really not supported by the decision to which he referred, namely Tota Ram v. Emperor AIR 1916 Lah 397, which relates to a continuing offence. The convictions and sentences so far as the petitioners 2 and 3 are concerned must therefore be set aside and the fines if any, paid by them must be refunded. So far as the convictions of petitioner 1 in these five cases 351 to 355 are concerned, they appear to be right and the sentences do not appear to be unduly severe. So far as therefore he is concerned, these five revision petitions are dismissed.