

(1941) 01 MAD CK 0022
In the Madras High Court

In Re: Ramanujam Appalaswamy and Others

Date of Decision : 29-01-1941

Acts Referred:

Companies Act, 1956 — Section 76(2)

Citation : AIR 1941 Mad 504 : (1941) 53 LW 660 : (1941) 1 MLJ 419

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.

Criminal Revision Case No. 789 of 1940.

1. The petitioners were convicted by the Sub-Divisional Magistrate, Vizianagaram u/s 76 (2) of the Indian Companies Act for not holding a general

meeting of the Company of which they are the directors within 18 months from the date of the incorporation; and they have been sentenced to a

fine of Rs. 50 each.

2. One of the defences of the petitioners was that the Registrar had condoned the delay. He was examined as a witness and he says:

List of members and summary of share capital u/s 32 was delayed. The Registrar of Joint Stock Companies condoned that delay. That has nothing

to do with the subject-matter of this case.

3. The letter of the Registrar, which is Ex. I, says in paragraph 2:

The delay in holding the general meeting is condoned and the list of members and summary is filed this time.

4. This letter would appear to condone the failure of the petitioners and the other directors to hold a general meeting within 18 months as required

by Section 76.

5. The learned Sub-Divisional Magistrate, in convicting the petitioner says:

The letter dated 14th March, 1940 (Ex. I-a) of the Company to the Assistant Registrar (P-W. 1) is about the list of annual members and summary

and notice of change in directors. The letter R. C. No. 72 of 1940 dated 7th May, 1940 of the Assistant Registrar is a reply to Ex. I-a. The

Assistant Registrar stated that the condonation was of the delay in filing the annual list of members and summary only.

6. It is true that the directors did not ask expressly in their letter Ex. I-a, to have their delay in holding a general meeting condoned; but the

Assistant Registrar, who knew that he would have to condone the failure to hold a general meeting if he had to condone the delay in sending up a

list of members and summary, also condoned the delay in holding a general meeting. This is clear from Ex. I. The learned Sub-Divisional

Magistrate therefore found the petitioners guilty under a misapprehension.

7. I have asked the learned Counsel for the petitioners--as well as the learned Public Prosecutor--whether there is any provision in the Companies

Act whereby the Registrar can condone the delay in holding a general meeting, and they have been unable to point out any such provision. Section

131 enables the Registrar to condone only the sending up of balance sheets. It was not however contended in the lower Court that the Registrar

had no such power; and so I do not think that any decision on that point is called for here.

8. The Criminal Revision case is allowed and the conviction and sentence are set aside.

Criminal Revision Case No. 790 of 1940.

9. This case is connected with Crl. R. C. No. 789. The petitioners have been convicted u/s 131 of the Indian Companies Act of not having laid

before the general body within 18 months of the incorporation of the Company a balance sheet. As has been found in Crl. R. C. No. 789 the

Registrar condoned the delay in holding a general meeting. He must therefore be deemed to have condoned the delay in filing a balance sheet

before the general body at its meeting. The acquittal of the petitioners in the connected case implies that they are not guilty of the offences with

which they have been charged in this case.

10. This Criminal Revision Case is therefore allowed and the conviction and

sentence are set aside.