
(2012) 08 DEL CK 0034

In the Delhi High Court

Case No : Criminal M.C. 252 of 2011 and Criminal M.A. 19295 of 2011

Puneet Jain

APPELLANT

Vs

SEBI and Another

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Securities and Exchange Board of India Act, 1992 — Section 24(1), 27

Citation : (2012) 9 AD 606 : (2012) 4 JCC 2695

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Shubham Bhalla, for the Appellant; Neeraj Malhotra, Respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.—This is a petition filed u/s 482 Cr.P.C. for quashing of complaint bearing C.C. No. 12/2009 under Sections 24(1) and 27 of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "Act"). Briefly stated, the facts of the case are that the allegations made by the respondents in the complaint are that the petitioner was a Director of a company which had committed an offence under Sections 24(1) and 27 of the Act. The complaint pertains to non-compliance of furnishing of information of the transactions of the company dealing in plantation bonds and other valuable securities.

2. The ground for quashing of the complaint, which has been set up by the petitioner, is that he had been appointed as a Director of the company in question in the year 1997, but he has ceased to be the Director w.e.f. 9.9.1998. It has been stated that the petitioner had tendered the resignation from the Directorship, which was accepted by the Registrar of Companies w.e.f. 9.9.1998 and accordingly he could not be made vicariously liable for the offence.

3. It has been further stated that in the year 2006, the proceedings of the case were adjourned sine die and the file was consigned to the Record Room and the

same was revived only in the year 2009. Therefore, it has been submitted that there has been no inordinate delay in filing the petition.

4. There is no dispute about the fact that the company was incorporated on 7.10.1997. However, the said business had failed to pickup, as a consequence of which the petitioner had resigned from the Directorship. The complaint was filed in the year 2004; the petitioner was served notice and in the year 2005, he had put in appearance and got himself bailed out but despite the fact that the petitioner was aware of his defence, he neither chose to file an application seeking his discharge nor did he file a petition seeking quashing of the proceedings against him. It was only belatedly in the year 2011 that the petitioner has woken up from a deep slumber and filed the present petition for quashing of the complaint against him on the ground that though he was the Director of the company in the year 1997, but he had ceased to be so w.e.f. 9.9.1998 and accordingly prayed for quashing of the complaint against him.

5. The learned counsel for the respondent No. 1 has vehemently opposed the prayer for quashing of the complaint on the ground that the petition has been filed after an inordinate delay, for which no cogent explanation has been given.

6. I have carefully considered the submissions made by the respective sides and gone through the records.

7. Although no period of limitation has been prescribed for invoking Section 482 Cr.P.C., but the provision cannot be treated as an open ended provision which can be invoked by a party at any time. A person must invoke the provision of Section 482 Cr.P.C. within a reasonable period of time. The Law of Limitation prescribes the period of limitation for filing an appeal within 60 days and revision within 90 days. Accordingly, the petition u/s 482 Cr.P.C. ought to have been filed within 90 days and if not certainly, it deserved to be filed within a reasonable period of time. What would constitute reasonable period of time would vary from case to case and no straightjacket formula can be laid down in this regard.

8. In the instant case, the petition for quashing has been filed after considerable delay for which no explanation has been given. The petitioner came to know about the present proceedings in the year 2005 and he also knew that he had ceased to be the Director, therefore, he was aware of his case and he ought not have waited for so long.

9. I, therefore, feel that the present petition is highly belated and only an afterthought and, therefore, the complaint cannot be quashed at this stage.

10. Accordingly, the petition is dismissed. File be consigned to the Record Room.