

CC No. 2558/2017

ROC Vs. M/s RCS Parivar Finance Ltd. & Ors.

16.08.2019

Present: Ms. Lata Prajapati Ld. Company Prosecutor for the complainant with Sh. Brij Lal Belwal, MTS on behalf of complainant

Sh. V.K. Jain, Ld. LAC for accused no. 4

Accused no. 3&5 already PO.

Sh. Chetan Tripathi, Id. Counsel for accused no.2

Accused no. 4 in person

Accused no. 2 absent.

An application for exemption from personal appearance moved on behalf of accused no.2. Application perused and allowed for today only.

An application seeking discharge of accused no. 2 is pending.

Further arguments heard.

Ld. Counsel for applicant/accused no. 2 Arvind Kumar Gupta argued that accused had resigned from accused no.1/company. He further argued that applicant/accused no. 2 was appointed as Director in the company on 14.08.2009 and on 25.08.2012 the applicant expressed his inability for reappointment as Director of the company in AGM and sought to be relieved from duties/post of Director. He further argued that the accused no.1 company issued a notice dt. 30.08.2012 wherein one of the agenda mentioned was to retire the applicant from the post of Director and the same fact was also

mentioned in clause IV of the Annual Return for the FY 2011-12 that the date of ceasing 29th September 2012 for MR. Arvind Kumar Gupta as Director.

Ld. Counsel further argued that on a prior occasion the complainant had inadvertently made the Applicant, by deeming him as a director of the company, as party to the complainant C C No. 53/3/14 U/s 220(3)/162 for contravention of Section 220(1) and section 159 of companies Act vide showcause notice no. LC/SCN/159-220/021466/11780-84 dt. 25.02.2014. He further argued that thereafter applicant/accused filed e-form DIR-11 vide SRN No. S30755201 dt. 01.08.14 to intimate the complainant regarding his resignation from directorship.

On the other hand, Ld. Company Prosecutor pointed out that as per Annexure I & II, the name of accused Arvind Kumar Gupta is reflected as director and date of his cessation is not mentioned in the said document.

Heard. Perused.

The complainant has not disputed the documents filed by the accused in support of his application. I have also gone through the order dt. 27.03.2015 passed by my Ld. Predecessor whereby he after holding that accused Arvind Kumar Gupta was not the director in the accused no. 1 company, dropped the proceedings against him.

I am satisfied that no ground is made out to continue the proceedings against accused Arvind Kumar Gupta. Hence, proceedings stand dropped against accused Arvind Kumar Gupta.

Heard on the point of notice qua accused no. 4 Vipin Bansal.

It is argued on behalf of complainant that there is prima facie material against the accused no. 4.

On the other hand, it is argued that no grounds made out for framing of notice.

I am satisfied that there are sufficient material available on record to frame the notice against accused no. 4 for contravention of **Section 96 & 137 of the companies Act** and as such punishable **u/s 99 & 137(3) of the companies act 2013**.

At this stage, it is submitted by accused no. 4, i.e. Vipin Bansal that he wants to plead guilty for the offence u/s 96&137 of the Companies Act.

In view of the same, accused no. 4 Vipin Bansal is convicted for the offence u/s 96&137 of the Companies Act.

Put up for arguments on sentence, on **20.09.19**.

(PAWAN SINGH RAJAWAT)
ACMM (Spl. Acts):Central District:
THC: Delhi: 16.08.2019