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IN THE COURT OF THE ADDL.CHIEF METROPOLITAN MAGISTRATE
3RD ESPLANADE, BOMBAY.

Case No. _____/RC of 1975.

Assistant Registrar of Companies,
Maharashtra, "Everest",
100 Marine Drive,
Bombay - 400 002.

Emper

.....Complainant.

Versus

- | | |
|---|---|
| 1. M/s. The Premier Construction Company Limited. | Construction House,
Ballard Estate, Bombay.1. |
| 2. Shri Lalchand Hirachand. | Neela House, M.L. Dahanukar
Marg, Bombay.26. |
| 3. Shri Ratanchand Hirachand. | Las Palmas Bldg., Flat No.33
3rd floor, Little Gibbs Road
Malabar Hill, Bombay.6. |
| 4. Shri Tulsidas Kilachand. | 95, Napean Sea Road, Bombay.6. |
| 5. Shri Kantilal Nehalchand. | Kantilal House, 14, New
Queence Road, Bombay.4. |
| 6. Shri Vaman Pundlik Varde. | Matru Smriti, 29B, Off.
Turner Road, Bandra, Bombay.50. |
| 7. Shri Balkisan K. Daphtary. | Flat No.22, Cesa Grande,
Little Gibbs Road, Bombay.6. |

.....Accused.

Offences under Section 293A of the
Companies Act, 1956 which are
punishable thereunder.

MAY IT PLEASE YOUR WORSHIP:

1. Accused No.1 is a public limited company having its registered office at Construction House, Walchand Hirachand Marg, Ballard Estate, Bombay-400 001. It is an existing company under the Companies Act, 1956 and carries on business as construction engineers, metal fabricators and cement manufacturers etc.

2. At all material times accused Nos. 2 to 8 were the Directors/Officers of accused No.1.

3. Section 293A of the Companies Act, 1956 which section came into force on 3rd April, 1970, provides as under :-

.....2.

293A Prohibition regarding making of political contributions

(1) Notwithstanding anything contained in any other provision of this Act, neither a company in general meeting nor its Board of Directors shall, after the commencement of the Companies (Amendment) Act, 1969, contribute any amount or amounts:

a) to any political party, or

b) for any political purpose to any individual or body.

(2) If a company contravenes the provisions of sub-section (1) then:

(1) the company shall be punishable with fine which may extend to five thousand rupees; and

(11) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

4. On scrutiny of the Balance Sheet and Profit and Loss Account of accused No.1 for the year ending 31.12.1971 which was filed under Section 220 of the Companies Act, 1956 with the complainant on 7.7.1972 it was observed that accused No.1 had during the said year made a donation of Rs.1,000/- to the Forum of Free Enterprise.

5. As a result of the examination of the constitution and manifesto of the Forum of Free Enterprise, it was ascertained that the said donation of Rs.1,000/- made by accused No.1 to the Forum of Free Enterprise during the year ending 31.12.1971 was a contribution for a political purpose in contravention of the provisions of Section 293A of the Companies Act, 1956, and as such there was a prima facie case for prosecution of the accused No.1 and its directors accused Nos. 2 to 7 for offences under Section 293A of the Companies Act, 1956.

6. Thereafter by letter dated 21.4.1975 accused No.1 and accused Nos. 2 to 7 who were the Directors/Officers in default were asked to show cause within 10 days from the receipt of the said letter why they should not be prosecuted for offences under Section 293A of the Companies Act, 1956. In reply to the said show cause notice accused No.1 has stated that the Forum of Free Enterprise is neither a political organisation nor does it carry on any political activity and the donation of Rs.1,000/- made to it for the year ending 31.12.1971 was not a contribution for any political purpose.

7. In the circumstances aforesaid the complainant submits that accused No.1 and accused Nos. 2 to 7 as the Directors/Officers of accused No.1 made a donation of Rs.1,000/- during the year ending 31.12.1971 to the Forum of Free Enterprise which donation was a contribution for a political purpose in contravention of Section 293A of the Companies Act, 1956. The complainant therefore submits that accused No.1 and accused Nos. 2 to 7 as its Directors/Officers in default have committed offences under Section 293A of the said Act, which are made punishable thereunder :

8. The complainant therefore charges accused No.1 and accused Nos. 2 to 7 who are its directors/officers in default with having committed offences under Section 293A of the Companies Act, 1956 and prays that the necessary process be issued and the accused be dealt with according to law.

9. The complainant prays that the costs of and incidental to these proceedings may be provided for under Section 626 of the Companies Act, 1956.

10. The complainant is the Asstt. Registrar of Companies,

Maharashtra, Bombay and is filing this complaint in his official Capacity. Further the complaint is based mostly on the records maintained the office and the information furnished by the accused themselves and therefore the complainant prays that his attendance in this Hon'ble Court may be dispensed with under the provisions of Section 621(1A) of the Companies Act, 1956 and Section 256(1) of the Code of Criminal Procedure 1973.

11. The complaint is filed in this Court as according to the complainant the territorial jurisdiction in respect of the subject matter of this complaint lies in this Court. The offence has been committed by the accused in this City where the Registered Office of the first accused is also situate.

Dated this 22nd day of January, 1976.

Sd/-

Asstt. Registrar of Companies,
Maharashtra, Bombay.

List of Witnesses.

- 1) Assistant in the office of the Registrar of Companies, Bombay.
- 2) Asstt. Registrar of Companies, Bombay.