



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty Second day of June Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP(MD) No.4981 of 2016
IN
CRL RC(MD) No.420 of 2016

1 M/S. JAI FIRE WORKS PVT LTD
REP, THROUGH ONE OF ITS DIRECTORS P.N.STALIN,
38. V.K.M. STREET, NEAR NADAR LODGE,
SIVAKASI, VIRUDHUNAGAR DISTRICT.

2 P.N. STALIN,DIRECTOR,
M/S. JAI FIRE WORKS (P) LTD,
3/77, PSR NAGAR, SIVAKASI,
VIRUDHUNAGAR DISTRICT.

... PETITIONERS/PETITIONERS

Vs

M/S. SWASTIC INDUSTRIES
269, HEBBAL INDUSTRIAL AREA,
BELAVADI POST, MYSORE THROUGH ONE OF ITS PARTNER
N. RAJA REP BY ITS POWER OF ATTORNEY
M.KOODALINGAM,S/O. MUTHIAH

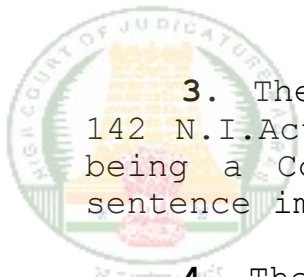
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence imposed by the Principal Sessions Court, Virudhunagar district at Srivilliputhur in Crl. A No. 178 of 2004 dated 04.04.2016 in confirming the conviction and sentence imposed by the Judicial Magistrate Court, Sivakasi in C.C. No. 270 of 2002 dated 15.10.2004 and release the Petitioner on bail, pending disposal of the Criminal Revision Petition.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S G.MARIMUTHU, Advocate for the petitioner while admitting the Criminal Revision Case the court made the following order:-

The petitioners challenge the legality and propriety of the conviction and sentence recorded by the Trial Court as well as by the Appellate Court.

2. The revision petitioners are the accused in a cheque bouncing case in C.C.No.270 of 2002, on the file of the learned Judicial Magistrate, Sivakasi.



3. The petitioners have been convicted under Section 138 r/w 142 N.I.Act, and each of them sentenced to 1 year S.I. Since A1 being a Company, the 2nd petitioner was directed to undergo the sentence imposed as against A1.

4. The learned Principal Sessions Judge, Virudhunagar District at Srivilliputtur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.178 of 2004.

5. The learned counsel for the petitioners submitted that A1 has also been sentenced to imprisonment. In the facts and circumstances, it will not arise.

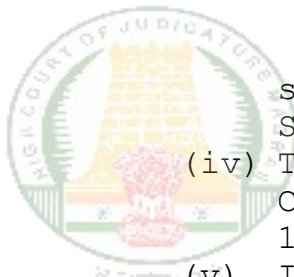
6. The learned counsel for the petitioners also submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and by the Appellate Court and they are required to be revised.

7. On perusal of the Judgments of the Trial Court and the Appellate Court, it is seen that both of them have fell into error with reference to sentencing the accused persons. A1 is an inanimate body. Although it is a juristic person, it is not a natural person. It is a legal body, but not a human body. It cannot be seen, but it can be seen through eye of law, such as Memorandum of Association, Certificate of Incorporation etc. A1 has no body, no soul and no mind. So, it cannot be punished physically, but it can be punished fiscally. Unlike in Civil Law, in Criminal Law under only rare circumstances vicarious liability can be recognized, Section 149 I.P.C. Section 34 I.P.C., can be stated as illustration. Though there is vicarious criminal liability, there is no vicarious punishment. In the matter of imposition of sentence of imprisonment, principle of Law of Agency cannot be imported into Criminal Law. Both the Trial Court and the Appellate Court have missed the rudimentary principles of criminal law.

8. In the facts and circumstances, perusing the impugned judgments and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal revision. They are required to be examined in detail in the main criminal revision. It will take some time for the disposal of this criminal revision. Further, 2nd petitioner was on bail in the Trial Court. I see *prima facie* case. I am inclined to grant revision bail to the 2nd petitioner.

9. In view of the foregoing, ordered as under:

- (i) Revision bail granted.
- (ii) Sentence of imprisonment ordered by the Trial Court and confirmed by the Appellate Court alone is suspended.
- (iii) There shall be two sureties, they and the 2nd petitioner shall execute a bond for Rs.15,000/- (Rupees fifteen thousand only) each to the



satisfaction of the learned Judicial Magistrate, Sivakasi.

(iv) The 2nd petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. until further orders.

(v) It is open to the 2nd petitioner to request the learned Judicial Magistrate, Sivakasi, to accept the same sureties for the connected batch cases.

sd/-

22/06/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE PRINCIPAL SESSIONS JUDGE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR

2 THE JUDICIAL MAGISTRATE, SIVAKASI

+1. C.C. to M/S G.MARIMUTHU Advocate SR.No.33070

ORDER

IN

CRL MP(MD) No.4981 of 2016

IN

CRL RC(MD) No.420 of 2016

Date :22/06/2016

AA/SK-SKN/SAR-I/27.06.2016/3p-4c