

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.181 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.

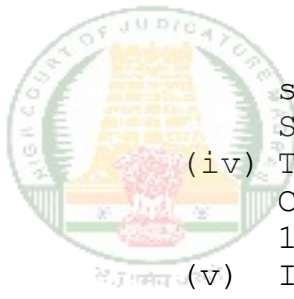
6. The learned counsel for the petitioners also submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and by the Appellate Court and they are required to be revised.

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

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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.33076

ORDER

IN

CRL MP(MD) No.4987 of 2016

IN

CRL RC(MD) No.423 of 2016

Date :22/06/2016

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