



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2016

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WEB COPY

THE HON'BLE DR.JUSTICE S.VIMALA
CrI.O.P. (MD) .Nos.9236 and 9237 of 2016

1. M/s.Sri Kruv Spinners Pvt. Ltd.,
Rep. By its Managing Director,
P.K.Mahamuni.

2.P.K.Mahamuni

... Common Petitioners/Petitioners/
Appellants

-VS-

M/s.Raju Chettiyar
(A Partnership Firm represented by its
Power of Attorney Mr.R.Raju Chettiyar)
S/o.R.Ragavan Chettiyar,
Door No.1213, Periyakulam Road,
Theni.

... Common Respondent/Respondent/
Respondent

Common Prayer: Petitions filed under Section 482 of the Code of Criminal Procedure to set aside the Return Endorsement order made by the learned District and Sessions Court at Theni on 02.06.2016 in CrI.M.P.Nos.unnumbered/ 2016 in CrI.M.P.No.72 & 73 of 2016 in CrI.A.No.1 & 2 of 2016 and to number the petitions and to pass orders on merits as to produce the sureties before the learned Fast Track Court (Judicial Magistrate Level), Theni in S.T.C.Nos.25 & 26 of 2016.

For Petitioners : Mr.R.Aravind Raj

C O M M O N O R D E R

These petitions have been filed, seeking

a) to set aside the orders passed while returning the petition made by the learned District and Sessions Court at Theni on 02.06.2016 in CrI.M.P.Nos.unnumbered/ 2016 in CrI.M.P.No.72 & 73 of 2016 in CrI.A.No.1 & 2 of 2016;

b) to direct the District Judge to number the petitions and to pass orders on merits with regard to production of sureties before the learned Fast Track Court (Judicial Magistrate Level), Theni in S.T.C.Nos.25 & 26 of 2016.

Brief Facts:

2. The respondent herein is a partnership firm and engaged in the cotton business and the 1st petitioner firm was purchasing cotton from the respondent firm on credit; that during the course of transactions, the 1st petitioner company issued two cheques for Rs.2,00,000/- and Rs.3,62,964/- respectively, which on presentation, were returned unpaid due to insufficiency of funds in the bank account of the petitioner company; that the respondent, after issuance of demand notice on 04.03.2003, filed a complaint on 03.04.2003 before the Fast Track Court (M.L.) at Theni.

2a. It is submitted that after completion of the trial proceedings, the learned Fast Track Court (Judicial Magistrate Level) at Theni by a judgment dated 18.04.2016 found the petitioners guilty and convicted the 2nd petitioner to undergo sentence of simple imprisonment for 2 years and pay a fine of Rs.5000/- in default to undergo simple imprisonment for 1 month and awarded compensation of Rs.3,67,964/- with regard to S.T.C.No.25 of 2016.

2b. The learned Fast Track Court (Judicial Magistrate Level) at Theni by a judgment dated 18.04.2016, in respect of S.T.C.No.26 of 2016 also, found the petitioners guilty and convicted the 2nd petitioner to undergo sentence of simple imprisonment for 2 years and pay a fine of Rs.5,000/- in default to undergo simple imprisonment for 1 month and awarded compensation of Rs.2,00,000/-. Learned Trial Court, while pronouncing the above judgments, granted an order of suspension of sentence till 18.05.2016 in order to enable the petitioner to prefer appeals.

2c. The 2nd petitioner preferred CrI.A.Nos.1 and 2 of 2016 along with CrI.M.P.Nos.72 and 73 of 2016 for suspension of sentence and the learned District and Sessions Court, Theni suspended the sentence with the direction to execute a bond for Rs.10,000/- with two sureties for the likesum to the satisfaction of the Trial Court within 15 days, i.e., on or before 26.05.2016.

3. It is submitted by the learned counsel for the petitioners that as the 2nd petitioner was suffering from severe chest pain, he was not in a position either to produce sureties before the Court or to file a petition well in advance for extension of time. However, the petitions filed subsequently before the learned District and Sessions Court, Theni were not entertained and instead, those petitions were returned, on the ground that the 2nd petitioner did not comply with the order dated 11.05.2016.

4. No doubt, the order passed by the learned District and Sessions Judge, has not been complied with, but the question is whether it was willful disobedience or it was due to reasons beyond the control of the petitioner. It is the case of the 2nd petitioner that his ill-health did not permit him to comply with the order and that it was not on account of wilfull disobedience.

5. It is submitted by the learned counsel for the petitioner to seek extension of time by filing a petition.



5. Once a petition has been received by the Court, it should have been either dismissed or allowed. In these cases, learned District and Sessions Judge, Theni, without doing so, simply returned the petitions stating that it cannot be entertained and that made the petitioner to approach this Court seeking further orders.

6. Considering the facts and circumstances of the case, learned District and Sessions Judge, Theni is directed to take the unnumbered petitions filed in CrI.M.P.No.72 & 73 of 2016 in CrI.A.No.1 & 2 of 2016 on file and to pass appropriate orders thereon on merits and in accordance with law within a period of one week from the date of receipt of a copy of this order, considering the fact that the 2nd petitioner was suffering from chest pain.

With the above direction, these Criminal Original Petitions are disposed of.

Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To:

1. The District and Sessions Judge
Theni.

2. The Fast Track Court (Judicial Magistrate Level),
Theni.

+2ccs to Mr.R.Aravindaraj, Advocate in SR.NO. 32612, 32613

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JA-GSV-PM.SAR.II/13.7.2016/3P:5C

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