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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 605/2016, CRL.REV.P. 32/2017, CRL.REV.P. 33/2017
CRL.REV.P. 34/2017, CRL.REV.P. 35/2017, CRL.REV.P. 36/2017
CRL.REV.P. 37/2017, CRL.REV.P. 38/2017, CRL.REV.P. 39/2017
CRL.REV.P. 40/2017, CRL.REV.P. 41/2017, CRL.REV.P. 42/2017
CRL.REV.P. 44/2017, CRL.REV.P. 45/2017, CRL.REV.P. 46/2017
CRL.REV.P. 47/2017, CRL.REV.P. 48/2017, CRL.REV.P. 49/2017
CRL.REV.P. 50/2017, CRL.REV.P. 51/2017, CRL.REV.P. 52/2017

SAMUDRA BIOPHARMA P.LTD. & ORS. Petitioners
Through: Mr. Abid Ali Beeran P., Adv.
versus

STATE AND ANOTHER Respondents
Through: Ms. Meenakshi Chauhan, APP for
State in Crl. Rev. P. Nos. 33/2017,
34/2017, 35/2017, 36/2017, 40/2017,
41/2017, 42/2017, 44/2017, 45/2017,
46/2017 & 48/2017.
Mr. G.M. Farooqui, APP for State in
Crl. Rev. P. Nos. 605/2016 &
32/2017
Ms. Manjeet Arya, APP for State in
Crl. Rev. P. Nos. 49/2017, 50/2017,
51/2017 & 52/2017.
Mr. Kalyan Dutt, Adv for R-2 with
Mr. R.B. Saxena, Consultant, TDB.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **19.07.2017**

Petitioners were convicted by the Trial Court under Section 138 of the
Negotiable Instruments Act, 1881 vide judgment dated 29th April, 2015, in

twenty one complaints and sentenced to custody till rising of the Court. They were also sentenced to pay compensation to the complainant (respondent no.2) amounting to ₹1 lac in each complaint case totalling to ₹21 lacs within 45 days from the date of judgment and in case of default of payment to further undergo simple imprisonment for one month.

Petitioner filed twenty one appeals before the Appellate Court, which have been disposed of together vide the judgment dated 9th August, 2016 passed by the learned Additional Sessions Judge-03, Patiala House Courts, New Delhi, whereby substantive sentence of imprisonment has been maintained, however, sentence of compensation has been enhanced from ₹1 lac to ₹2 lacs in each complaint case. It has been further directed that compensation be paid within 35 days from the date of order and in default of payment of compensation, petitioners shall undergo simple imprisonment for 1 month.

It is noted that compensation of ₹21 lacs, in terms of the order of the trial court, has already been paid.

Learned counsel for the petitioners has vehemently contended that petitioner no.1-Company had stopped its operations since the year 2009 and is a defunct company. Petitioner nos. 2 and 3 have taken up employment in

some other companies. Petitioner no.2 has taken up employment in Cochin and is living there; whereas petitioner no. 3 is working in the Kingdom of Saudi Arabia and is living there. They were not living at the company's address. However, in the appeals, addresses of the Company were mentioned as the addresses of the petitioner nos. 2 and 3. Since petitioner nos. 2 and 3 were not available at the given addresses they could not be served.

Petitioners were ultimately served by way of publication in different newspapers. Respondent No. 2 did not make any effort to find out the addresses of the petitioner nos. 2 and 3. Instead, they got served the notices by way of publication in the newspapers which were not sent to petitioner nos.2 and 3 at their current addresses. Petitioner nos.2 and 3 may not have come across with the newspapers wherein notices were served as they were not subscribing to the said newspapers. Even otherwise there is no provision in Cr.P.C. for service of accused by way of publication. Accordingly, petitioner nos. 2 and 3 were not aware about the pendency of the appeals.

Keeping in mind the fact that petitioner no.1 Company is lying closed since 2009 and correct addresses of the petitioner nos. 2 and 3 were not given in the appeal, therefore, there is every possibility of them not being

aware about the pendency of appeals. For the foregoing reasons, impugned judgment passed by the Appellate Court is set aside and all the appeals are remanded back to the Appellate Court for fresh adjudication. Parties to appear before the Appellate Court on 5th September, 2017.

Petitions are disposed of in the above terms. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

JULY 19, 2017

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