

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.A.No.596 of 2006

Union of India
Rep by its Enforcement Officer,
Enforcement Directorate,
Chennai Appellant/Complainant

Vs

Vijayakumar Dar
Managing Director,
M/s. Hadimba International Ltd.,
MF-6, Developed Plots,
Thiru-Vi-Ka Industrial Estate,
Ekkaduthangal,
Chennai - 600 079. Respondent/Accused

Criminal Appeal filed under Section 378 of Criminal Procedure Code, against the order passed in E.O.C.C.No.372 of 2002 dated 27.02.2006, on the file of the learned Additional Chief Metropolitan Magistrate, E.O.I, Egmore, Chennai.

For Appellant : Mr.N.Ramesh
Special Public Prosecutor
for Enforcement cases.

For Respondent : No appearance

JUDGMENT

This appeal is directed as against the order passed in E.O.C.C.No.372 of 2002 dated 27.02.2006 on the file of the learned Additional Chief Metropolitan Magistrate, E.O.I, Egmore, Chennai, thereby dismissed the complaint lodged by the appellant/complainant.

2. The appellant/complainant lodged a complaint against the respondent alleging that the Deputy Director of Enforcement, Chennai initiated adjudication proceedings against the accused for contravention of Sections 18(2) and 18(3) of Foreign Exchange Regulation Act, 1973 and imposed penalty of Rs.1 lakh on the accused vide order dated 24.12.2001 and thereby directing the accused to deposit the penalty within a period of 45 days

from the date of the receipt of the order.

3. The said complaint was dismissed on the ground that the alleged adjudication proceedings dated 24.12.2001, Ex.P.1 was served to the accused on 11.03.2002. But it was despatched only on 01.02.2002. As against Ex.P.1, the appeal shall lie with the Appellate Tribunal for Foreign Exchange after depositing the fine amount of Rs.1 lakh within a period of 45 days from the date on which the order was served. After receipt of the said proceedings, the accused filed an appeal before FERA Appellate Board on 26.04.2002. From the date of the receipt of the order, the period of 45 days will fall on 25.04.2002. Since on 25.04.2002 was public holiday, namely Mahaveer Jayanthi, as such the next working day is on 26.04.2002. Accordingly, the appeal was filed on 26.04.2002, before the FERA Appellate Board and latter he was directed to deposit a sum of Rs.10,000/- and the same was deposited by the accused and subsequently, stay was also granted in favour of the accused. Hence, the complaint filed against the accused is dismissed as not maintainable and acquitted the accused.

4. Heard Mr.N.Ramesh, learned Special Public Prosecutor appearing for the appellant and none appeared for the respondent

5. The only contention raised in this appeal is once the period of 45 days is lapsed the offence is completed. The belated payment, even though the same was permitted by the appellate Court, would not dissolve the accused from the charges of non payment of penalty within the statutory time of 45 days.

6. It is relevant to cite the judgment rendered by this Court in Crl.A.No.586 of 1991 on 10.03.1999 - The Assistant Director, Enforcement Directorate Vs. Haji Mohammed Ghouse, which held as follows :-

"The ground on which the acquittal judgement has been rendered is not valid in law. However, in view of the fact that the appellant has already been paid in 1981 and the judgment of the acquittal was rendered on 31.07.1991 and the appeal is pending before this Court from 1991, I do not inclined to discharge the order of acquittal, except to point out the illegality as committed by the trial Court as indicated above. with these observations, the appeal is disposed of."

7. In view of the above fact that the accused deposited the penalty as directed by the FERA appellate Board, nothing survives in the adjudication proceedings dated 24.12.2001. Therefore, this Court is of the considered opinion that no need

to interfere with the order impugned in this appeal. Hence this appeal is disposed of.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Additional Chief Metropolitan Magistrate,
E.O.I, Egmore, Chennai

2.The Enforcement Officer
Enforcement Directorate,
Union of India, Chennai.

+1cc to Mr.N.Ramesh, Advocate Sr.No.46051

Copy to:The Section Officer,
Criminal Section, (Records)
High Court, Madras.

GJII(CO)
sm:26.7.2018

Criminal Appeal No. 596 of 2006

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