

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION Nos.7677,8574,7678,8575,8767,
8768,6128,6131 AND 8608 of 2018

IN CRL RC.NOS.509,511 AND 744 OF 2018

S.SRINIVASAN

[PETITIONER

IN CRL.MP.NOS.7677 & 8574 OF 2018 IN
CRL.RC.NO.509 OF 2018]

S.SRINIVASAN

[PETITIONER

IN CRL.MP.NOS.7678 & 8575 OF 2018 IN
CRL.RC.NO.511 OF 2018]

1 M/S.PREMIER ENERGY &
INFRASTRUCTURE LTD (A-1)
REP BY ITS MANAGING DIRECTOR
M.NARAYANAMURTHY

[PETITIONERS

IN CRL.MP.NO.8767 OF 2018 IN
CRL.RC.NO.509 OF 2018]

2 M.NARYAANAMURTHY
3 A.SRIRAM
4 T.R.MURALI

1 VIKRAM MANKAL
2 K.N.NARAYANAN
3 RAMAKRISHNAN RANGASWAMI
4 MALKA KOMARAI AH

[PETITIONERS

IN CRL.MP.NO.8768 OF 2018 IN
CRL.RC.NO.511 OF 2018]

1 M/S.PREMIER ENERGY &
INFRASTRUCTURE LTD (A-1)
REP BY ITS MANAGING DIRECTOR
M.NARAYANAMURTHY

[PETITIONERS

IN CRL.MP.NO.6128 OF 2018 IN
CRL.RC.NO.509 OF 2018]

2 M.NARYAANAMURTHY
3 A.SRIRAM
4 T.R.MURALI

1 VIKRAM MANKAL
2 K.N.NARAYANAN
3 RAMAKRISHNAN RANGASWAMI
4 MALKA KOMARAI AH

[PETITIONERS

IN CRL.MP.NO.6131 OF 2018 IN
CRL.RC.NO.511 OF 2018]

KRISHNAN SUBRAMANIAM

[PETITIONER

IN CRL.MP.NO.8608 OF 2018 IN
CRL.RC.NO.744 OF 2018]

Vs

1 M/S.PREMIER ENERGY &
INFRASTRUCTURE LTD (A-1)
REP BY ITS MANAGING DIRECTOR
M.NARAYANAMURTHY

[RESPONDENTS
IN CRL.MP.NO.7677 & 8574 OF 2018 IN
CRL.RC.NO.509 OF 2018]

2 M.NARYAANAMURTHY
3 A.SRIRAM
4 T.R.MURALI

1 VIKRAM MANKAL
2 K.N.NARAYANAN
3 RAMAKRISHNAN RANGASWAMI
4 MALKA KOMARAI AH

[RESPONDENTS
IN CRL.MP.NOS.7678 & 8575 OF 2018 IN
CRL.RC.NO.511 OF 2018]

S.SRINIVASAN

[RESPONDENT
IN CRL.MP.NO.8767 OF 2018 IN
CRL.RC.NO.509 OF 2018]

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[RESPONDENT
IN CRL.MP.NO.8768 OF 2018 IN
CRL.RC.NO.511 OF 2018]

S.SRINIVASAN

[RESPONDENT
IN CRL.MP.NO.6128 OF 2018 IN
CRL.RC.NO.509 OF 2018]

S.SRINIVASAN

[RESPONDENT
IN CRL.MP.NO.6131 OF 2018 IN
CRL.RC.NO.511 OF 2018]

S.SRINIVASAN

[RESPONDENT
IN CRL.MP.NO.8608 OF 2018 IN
CRL.RC.NO.744 OF 2018]

Petition praying that in the circumstances stated therein the High Court will be pleased to

(i) direct the Respondents herein to deposit the sum of Rs.10 crores forthwith ordered to be paid as compensation to the Petitioner by the Honble I Additional Sessions Judge Tiruvallur vide order dated 28/03/2018 in an interest bearing bank account of this Honble Courts choice pending Crl.R.C.No.509 of 2018. [IN CRL.MP.NO.7677 of 2018 IN CRL.RC.NO.509 OF 2018]

(ii) vacate the order dated 19.04.2018 granting suspension of sentence in facour of the Respondents pending the Crl.RC.NO.509 of 2018. [IN CRL.MP.NO.8574 OF 2018 IN CRL.RC.NO.509 OF 2018]

(iii) direct the Respondents herein to deposit the sum of Rs.10 crores forthwith ordered to be paid as compensation to the Petitioner by the Honble I Additional Sessions Judge Tiruvallur vide order dated

28/03/2018 in an interest bearing bank account of this Honble Courts choice pending Crl.R.C.No.511 of 2018. [IN CRL.MP.NO.7678 of 2018 IN CRL.RC.NO.511 OF 2018]

(iv) vacate the order dated 19.04.2018 granting suspension of sentence in facour of the Respondents pending the Crl.RC.NO.511 of 2018. [IN CRL.MP.NO.8575 OF 2018 IN CRL.RC.NO.511 OF 2018]

(v) stay the order directing the petitioners to pay Rs.10 crores paid as compensation to the respondent by the Honble I Additional Sessions Judge, Tiruvallur in order dt 28/03/2018 in C.A.NO.25 of 2017 on the file of the Hon'ble I Additional Sessions Judge, Triuvallur, pending disposal of the above Crl.R.C.No.509 of 2018. [IN CRL.MP.NO.8767 of 2018 IN CRL.RC.NO.509 OF 2018]

(vi) stay the order of compensation dt 28.03.2018 passed by learned I Additional Sessions Judge, Tiruvallur in C.A.NO.25 of 2017 directing the payment of the compensation of MR. R.SURYA PRAKASH, GOVERNMENT ADVOCATGE [CRL.SIDE].10 Crores to the respondent, pending disposal of the above Crl.R.C.No.511 of 2018. [IN CRL.MP.NO.8768 of 2018 IN CRL.RC.NO.511 OF 2018]

(vii) suspend the sentence and convicted imposed by the order dated 28.03.2018 in C.A.NO.25 of 2017 passed by the Hon'ble I Additional Sessions Judge, Tiruvallur wherein convicted the Petitioners by reversing the judgment passed in STC.NO.6 of 2016 dated 20.01.2017, on the file of the Fast Track Court (Magistrate Level), Tiruvallur till the disposal of the above Crl.R.C.No.509 of 2018. [IN CRL.MP.NO.6128 of 2018 IN CRL.RC.NO.509 OF 2018]

(viii) suspend the sentence and conviction imposed by the order dated 28.03.2018 in C.A.NO.25 of 2017 passed by the Hon'ble I Additional Sessions Judge, Tiruvallur, wherein convicted the Petitioners by reversing the judgment passed in STC.NO.6 of 2016 dated 20.01.2017, on the file of the Fast Track Court (Magistrate Level), Tiruvallur till the disposal of the above Crl.R.C.No.511 of 2018. [IN CRL.MP.NO.6131 of 2018 IN CRL.RC.NO.511 OF 2018]

(ix) suspend the sentence imposed on the petitioner the I Additional Sessions Judge, Tiruvallur in C.A.NO.25 of 2017 by a judgement dated 28.03.2018 while reversing the judgement of Acquittal dated 20.01.2017 rendered by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruvallur in S.T.C.NO.6 of 2016 and enlarge the petitioner on bail pending disposal of the above Crl.R.C.No.744 of 2018. [IN CRL.MP.NO.8608 of 2018 IN CRL.RC.NO.744 OF 2018]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of MR.A.RAMESH, SENIOR COUNSEL FOR MR.PRASAD VIJAYAKUMAR, ADVOCATE [IN CRL.MP.NOS.7677,8574 OF 2018] AND MR.I.S.SUBRAMANIAM, SENIOR COUNSEL FOR MR.PRASAD VIJAYAKUMAR, ADVOCATE [IN CRL.MP.NOS.7678,8575 OF 2018] AND MR.AR.L.SUNDARESAN SENIOR COUNSEL FOR MR.M.MOHAMMED RAFI Advocate

[IN CRL.MP.NOS.8767,6128 OF 2018] AND MR.A.RAGHUNATHAN, SENIOR COUNSEL FOR MR.M.MURALI ADVOCATE [IN CRL.MP.NOS.8768,6131 OF 2018] AND MR.NANCHILL J RAJKUMAR ADVOCATE [IN CRL.MP.NO.8608 OF 2018] for the **petitioners** and of MR.AR.L.SUNDARESAN SENIOR COUNSEL FOR MR.M.MOHAMMED RAFI Advocate [IN CRL.MP.NOS.7677, 8574 OF 2018] AND MR.A.RAGHUNATHAN, SENIOR COUNSEL FOR MR.M.MURALI ADVOCATE [IN CRL.MP.NOS.7678,8575 OF 2018] AND MR.A.RAMESH, SENIOR COUNSEL FOR MR.PRASAD VIJAYAKUMAR, ADVOCATE [IN CRL.MP.NOS.8767,6128 OF 2018] AND MR.I.S.SUBRAMANIAM, SENIOR COUNSEL FOR MR.PRASAD VIJAYAKUMAR, ADVOCATE [IN CRL.MP.NOS.8768,6131,8608 OF 2018] on behalf of the **Respondents** the court made the following order:-

Criminal Revision Case No.509 of 2018 is filed by accused Nos.1, 3, 8 and 9 and Criminal Revision Case No.511 of 2018 is filed by accused Nos.4, 5, 6 and 7 seeking to set aside the order dated 28.03.2018 passed by the learned I Additional Sessions Judge, Tiruvallur, in C.A.No.25 of 2017 and consequently upheld and confirm the order dated 20.01.2017 passed by the Fast Track Court (Magistrate Level), Tiruvallur, in S.T.C.No.6 of 2016 and acquit the accused from the charge under Section 138 of the Negotiable Instruments Act.

2. Criminal Revision Case No.744 of 2018 is filed by the second accused seeking to set aside the sentence and compensation imposed on him by the learned I Additional Sessions Judge, Tiruvallur, in Crl.A.No.25 of 2017 by his judgment dated 28.03.2018 reversing the judgment of the learned Judicial Magistrate, Fast Track Court at Magistrate Level, Tiruvallur, in S.T.C.No.6 of 2016 dated 20.01.2017.

3. Crl.M.P.No.7677 of 2018 is filed by the complainant seeking a direction to accused Nos.1, 3, 8 and 9 to deposit a sum of Rs.10 crores forthwith which was ordered to be paid as compensation to the complainant by the learned I Additional Sessions Judge, Tiruvallur vide order dated 28.03.2018 in an interest bearing bank account of this Courts choice pending Crl.R.C.No.509 of 2018.

4. Crl.M.P.No.8574 of 2018 is filed by the complainant to vacate the order dated 19.04.2018 granting suspension of sentence in favour of accused Nos.1, 3, 8 and 9 pending the Crl.R.C.No.509 of 2018.

5. Crl.M.P.No.7678 of 2018 is filed by the complainant seeking a direction to accused Nos.4, 5, 6 and 7 to deposit a sum of Rs.10 crores forthwith which was ordered to be paid as compensation to the complainant by the learned I Additional Sessions Judge, Tiruvallur, vide order dated 28.03.2018 in an interest bearing bank account of this Courts choice pending Crl.R.C.No.511 of 2018.

6. Crl.M.P.No.8575 of 2018 is filed by the complainant to vacate the order dated 19.04.2018 granting suspension of sentence in favour of accused Nos.4, 5, 6 and 7 pending the Crl.R.C.No.511 of 2018.

7. Crl.M.P.No.8767 of 2018 is filed by accused Nos.1, 3, 8 and 9 seeking to stay the order directing them to pay a sum of Rs.10 Crores as compensation to the complainant by the learned I Additional Sessions Judge, Thiruvallu, in the order dated 28.03.2018 in

C.A.No.25 of 2017, pending disposal of the above Crl.R.C.N.509 of 2018.

8. Crl.M.P.No.8768 of 2018 is filed by accused Nos.4, 5, 6 and 7 seeking to stay the order directing them to pay a sum of Rs.10 Crores as compensation to the complainant by the learned I Additional Sessions Judge, Thiruvallur, in the order dated 28.03.2018 in C.A.No.25 of 2017, pending disposal of the above Crl.R.C.N.511 of 2018.

9. Crl.M.P.Nos.6128 and 6131 of 2018 are filed by accused Nos.1, 3, 8 and 9 and accused Nos.4, 5, 6 and 7 respectively seeking to suspend the sentence imposed by the learned I Additional Sessions Judge, Thiruvallur, in the order dated 28.03.2018 in C.A.No.25 of 2017, pending disposal of the above criminal revision cases.

10. Crl.M.P.No.8608 of 2018 is filed by the second accused seeking to suspend the sentence imposed on him by the learned I Additional Sessions Judge, Thiruvallur, in Crl.A.No.25 of 2017 by his judgment dated 28.03.2018, reversing the judgment of acquittal dated 20.01.2017 rendered by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruvallur, in S.T.C.No.6 of 2016 and enlarge the second accused on bail pending disposal of the Criminal Revision Case No.744 of 2018.

11. Heard both sides and perused the records.

12. A.1 is the Company while A.2 is the Managing Director of the first accused company, A.3 is the functionary Manager of the first accused company, A.4, A.5, A.6 and A.7 are the Directors of the first accused company, A.8 is the Chief Financial Advisor and A.9 is the Senior Manager of the first accused company.

13. The respondent herein/complainant has filed a private complaint against accused Nos.1 to 9 before the trial Court for the offence under Section 138 r/w. 142 of the Negotiable Instruments Act and the learned Judicial Magistrate, Fast Track Court Magistrate Level at Thiruvallur, had acquitted the accused. As against the said order of acquittal, the complainant has preferred an appeal before the Appellate Court and the learned I Additional Sessions Judge, Tiruvallur, after hearing both sides, set aside the order of acquittal and convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced accused Nos.2 to 9 to undergo one year simple imprisonment and further directed accused Nos.1 to 9 to pay a sum of Rs.10 crores as compensation to the complainant, in default, accused Nos.2 to 9 are sentenced to undergo one month simple imprisonment.

14. When the petitions in Crl.M.P.Nos.6128 and 6131 of 2018 filed for suspending the sentence imposed by the learned I Additional Sessions Judge, Thiruvallur, dated 28.03.2018 in C.A.No.25 of 2017, came up for hearing, this Court, by an order dated 28.04.2018, has passed the following order:-

"6. After perusing the documents and the memorandum of understanding, which is marked as Ex.P.11 and various clauses contained therein coupled with the cross examination of P.W.2 (Private Complainant) before the trial Court and also considering the scope of miscellaneous petitions, I am not expressing any opinion except to say that the interim order dated 19.04.2018 granting suspension of sentence imposed on the accused shall stand extended till the next hearing date.

7. Post the above CrI.M.P.Nos.6128 and 6131 of 2018 for further hearing on 12.06.2018. The interim order of suspending the sentence is extended till then."

15. Mr.AR.L.Sundaresan, learned Senior Counsel for Mr.M.Mohammed Rafi appearing for accused Nos.1, 3, 8 and 9/petitioners in CrI.R.C.No.509 of 2018 has argued that interpretation of clauses 2, 3 and 8 coupled with 9 and 12 will lead to irrevocable conclusion that in respect of certain memorandum of understanding entered into between the parties herein, guarantee has been given for the purpose of transfer of shares in one of the sister company of the first accused and payment has been deferred. However, necessary surety by way of cheque in issue in this case has been issued and therefore, it is contended that the trial Court has given proper interpretation of clauses 2, 3 and 9 in the Memorandum of Understanding entered between the parties on 25.04.2015 and dismissed the complaint acquitting the accused. However, on a wrong interpretation of the clauses, the lower Appellate Court viz., I Additional Sessions Court, Tiruvallur, has allowed the appeal filed by the complainant and convicted and sentenced the accused for the offence under Section 138 of the Negotiable Instruments Act and hence, there are arguable points in the criminal revision case No.509 of 2018.

16. Pending argument in the main criminal revision case, Mr.AR.L.Sundaresan, learned Senior Counsel has pressed for extension of interim suspension granted on 19.04.2018 which was further extended on 28.04.2018 and on 12.06.2018.

17. Mr.A.Ramesh, learned Senior Counsel for Mr.Prasad Vijayakumar, appearing for the respondent in CrI.R.C.No.509/2018/complainant on the question of suspension of sentence would contend that interpretation given by the Lower Appellate Court as to the clauses 2, 3 and 8 stands to legal reasoning and as such, the cheque in issue was supported by legal enforceable debt and hence, for extension of the interim suspension order, conditional order may be passed directing the accused to deposit the cheque amount since the same reflects as a compensation under Section 357(3) of Cr.P.C. He has also relied on a decision of the Hon'ble Supreme Court reported in **2018 SCC Online SC 270 [Satyendra Kumar Mehra @ Satendera Kumar Mehra Vs. The State of Jharkhand (Criminal Appeal No.406 of 2018)]**.

18. Mr.A.Raghunathan, learned Senior Counsel for Mr.M.Murali appearing for accused Nos.4 to 7/revision petitioners in Crl.R.C.No.511 of 2018 has relied upon the following decision of the Hon'ble Supreme Court viz.,

[i] **CDJ 2014 SC 288 [M/s. Indus Airways Pvt. Ltd., & Others Vs. M/s. Magnum Aviation Pvt. Ltd., & another]**

[ii] **CDJ 2006 SC 492 [M.S.Narayana Menon @ Mani Vs. State of Kerala & Another]**

[iii] **CDJ 2014 SC 1039 [Pooja Ravinder Devidasani Vs. State of Maharashtra & Another]**

19. Mr.I.S.Subramanian, learned Senior Counsel for Mr.Prasad Vijayakumar appearing for the complainant/respondent in Crl.R.C.No.511 of 2018 argued on the quantum of amount to be deposited pending revision.

20. After going through the various decisions and also after going through the order passed by the Lower Appellate Court convicting the accused and imposing fine of Rs.10 crores, equal to the cheque amount as compensation to be paid, is under challenge.

21. The short point that needs to be considered in all the criminal miscellaneous petitions is that pending criminal revision cases, whether the revision petitioners in all the three criminal revision cases viz., accused 1 to 9 are to be directed to deposit the cheque amount as prayed for by the private complainant.

22. On a perusal of documents, it is seen that in the Memorandum of Understanding-Ex.P.11 entered between the parties on 25.04.2015, according to the private complainant, clauses 2, 3, 5 and 8 supports his case while according to the revision petitioners/accused, clauses 2, 3 read with 9 supports their case. The Lower Appellate Court, on consideration as to what is proper interpretation of the clause contained therein, has given a categorical finding that the cheque-Ex.P.12, dated 30.09.2015 was issued according to the terms contained in Ex.P.11-Memorandum of Understanding and part cash consideration payable by the complainant is also admitted. Therefore, the Lower Appellate Court has held that the private complainant is entitled for presumption as contemplated under Section 139 of the Negotiable Instruments Act and hence, the burden is shifted to accused 1 to 9 [revision petitioners herein] to rebut the presumption by adducing probable evidence. But the Lower Appellate Court has also held that except the querier service man, who was examined as R.W.1, no one was examined on the side of the accused to rebut the presumption under Section 139 of the Negotiable Instruments Act. The Lower Appellate Court further held that the revision petitioners herein have not rebutted the legal presumption and accordingly, convicted all the accused and also held that A.2 is the Managing Director and other Directors are responsible for the day-to-day affairs of the

first accused company at the relevant point of time and accordingly, sentenced accused 2 to 9 to undergo one year simple imprisonment for the offence under Section 138 of the Negotiable Instruments Act.

23. Mr.Nanchill J. Rajkumar, learned counsel appearing for the revision petitioner in Crl.R.C.No.744 of 2018/A.2 would contend that in the absence of any positive and cogent evidence, the Lower Appellate Court ought not to have laid conviction on the second accused.

24. Per contra, Mr.I.S.Subramanian, learned Senior Counsel for Mr.Prasad Vijayakumar, appearing for the private complainant/respondent in Crl.R.C.No.511 of 2018 argued on the point of vicarious responsibility of accused Nos.2 to 9 and contended that while A.2 Managing Director was fully in-charge of operation and also signed in the Memorandum of Understanding so also A.4/Mr.Vikram Mankal and drawn my attention to the relevant documents marked before the trial Court. He further contended that A.3 is a functionary Manager and A.5 to A.7 are the Directors, who have taken active participation in the running of day-to-day affairs of the company and A.8 and A.9, who have signed Ex.P.12-Cheque and also signed in the Memorandum of Understanding.

25. The summary stating vicarious liability of other persons submitted by the learned counsel in short is as under:-

Ac cu se d No	Name	Designa tion	Date		Functions	Exh ibi t	Re ma rk s
			From	To			
				As Claimed by him	Actual as per Exhibit		
A1	PEIL, Company						
A2	Krishna Subrama niam	Managin g Directo r	25.04.2 015	12.09.2 015	13.10.2 015	As MD, fully incharge of operations, Incharge of Finances, Authentication of Accounts and was fully aware of MOU dated 25.04.2015 being signed. He has not signed the cheque/MOU, since company had the practice of nominating the other functionaries A8 & A9 for signing. Actual date of Resignation only on 13.10.2015 as per DIR 12 submitted to Registrar of Companies.	P51 , P53 P54

Ac cu se d No	Name	Designa tion	Date		Functions	Exh ibi t	Re ma rk s
A3	Narayan a murthy	Princip al functio nary	Earlier to 2009	Continu ing as MD	He was instrumental in their acquisition of 50.1% SHARES of EMAS, in 2009, various Agreements/MOUs - all signed by him, include all Banking arrangements and dealt with Banks. Proposed to complainant to acquire balance 49.9% of shares, attended all matters of EMAS, as Principal representative of PEIL, A1 Company	Ex. P4, P5, P9, P10 , P11 & P36	
A4	Vikram Mankal	Managin g Directo r	14.02.2 012	30.03.2 015	Managing Director of PEIL till 30.03.2015, and signed MOU dated 18.03.2015, (EX.P.10), Director from 01.04.2015 and signed MOU dated 25.04.2015 (Ex.P.11) and subsequently, as well signed and Authenticated Annual Financial Statements, pledged shares of SAF to complainant as security, Authorized issue of case cheque	Ex. P40 , P.1 0, P.5 1, P.1 0, P.1 1, P.1 1, P.3 7, P.1 4, P.5 3, P.5 4	
		Directo r	01.04.2 015	Continu ing			
A5	K.N.Nar ayanan	Directo r	03.06.2 009	Continu ing	Key Managerial Personnel, signed MOU dated 18.03.2015 and MOU dated 25.04.2015, signed letters to Banks about A1 acquiring 49.9% shares of complainant, Attended all Board Meetings of A1 & EMAS	Ex. P12 , P.1 0, P.1 1, P.1 7	

Ac cu se d No	Name	Designa tion	Date			Functions	Exh ibit	Re ma rk s
A6	Ramakrishnan Rangaswamy	Director Chairman	03.06.2009	Continuing		Active Participation in Company, attended and signed all Board Resolutions, particularly for entering into MOU dated 18.03.2015 & 25.04.2015. Authenticated all Financial Reports, Chaired AGMs	Ex. P.4 1, P.1 0, P.1 1, P.5 4, P.5 5, P.5 1	`
A7	Malka Komariah	Director	2009	31.03.2015	26.10.2015	Was Director at time of signing of MOU dated 18.03.2015, Actual date of resignation as obtained from RTI (Ex.P.32) is 26.10.2015 only and his own self declaration of ROC Form 11 (Ex.P.43) is only on 04.11.2015. Refused/delayed to accept notice of complainant's dated 09.10.2015 (P.25), Reply to statutory notice on 05.11.2015		
A8	A.Sriram	Chief Financial Officer	Long standing Employee and Associate of A3			Signed the case cheque Ex.P.12. Was authorized to sign all cheques for A1 company, even from 2013, Declared as Key Managerial Personnel, signed MOU dated 18.03.2015 (Ex.P.10) and dated 25.04.2015 (Ex.P.11), signed personal guarantee of A3, looking after day to day affairs. Signed Share pledge	Ex. P.1 2, P.1 3, P.1 4, P.1 0, P.1 1	
A9	T.R. Murali	Senior Manager	Long standing Employee and Associate of A3			Signed the case cheque Ex.P.12. Signed MOU dated 18.03.2015 and 25.04.2015. Signed share pledge.	Ex. P.1 2, P.1 3, P.1 4, P.1 0, P.1 1	

26. After hearing the arguments made by the learned Senior Counsels appearing for A.3 to A.9 and also the relevant Exhibits marked in respective column, I am of the considered view that accused Nos.3 to 9 are vicariously responsible for the day-to-day affairs, administration and running of the company and accused Nos.7 and 8, who are the Chief Financial Officer and Senior Manager, who have signed in Ex.P.12-Cheque are also vicariously liable. After going through the document Ex.P.11 and also the decision of the Hon'ble Supreme Court reported in **CDJ 2014 SC 288 [M/s. Indus Airways Pvt. Ltd., & Others Vs. M/s. Magnum Aviation Pvt. Ltd., & another] (Cited supra)** relied upon by Mr.A.Raghunathan, learned Senior Counsel appearing for accused Nos.4 to 7/revision petitioners in Crl.R.C.No.511/2018 and the decision of the Hon'ble Supreme Court reported in **(2001) 2 Supreme Court Cases 416 [Stanny Felix Pinto Vs. Jangid Builders Pvt., Ltd., and another]** and in view of the judgment of this Court in **Crl.O.P.Nos.21576, 21577 and 21702 of 2016 dated 29.09.2016**, this Court is of the view that calling upon the accused to deposit a part of the compensation amount cannot be said to be harsh and hence, the earlier order of suspending the substantial sentence has to be modified.

27. Accordingly, the earlier order of suspension of substantial sentence granted pending the above criminal revision cases which was extended from time to time is modified subject to the following conditions:-

[i] The substantive sentence of imprisonment alone is suspended pending the above criminal revision cases;

[ii] The petitioners 2 to 4 in Crl.M.P.No.6128 of 2018/Accused Nos.3, 8 & 9, petitioners 1 to 4 in Crl.M.P.No.6131 of 2018/Accused Nos.4, 5, 6 & 7 and the petitioner in Crl.M.P.No.8608 of 2018/Accused No.2 are ordered to be released on bail on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court, Magistrate Level at Thiruvallur;

[iii] A.1 to A.9 are directed to deposit 50% of the compensation amount as awarded by the trial Court within a period of eight weeks from the date of receipt of a copy of this order, failing which, the order of suspension of substantial sentence granted shall stand automatically vacated and on further condition that

[iv] Accused Nos.2 to 9 shall appear before the said Court on the first working day of every month at 10.30 a.m. till the disposal of the above criminal

[v] The deposit as stated in clause [iii] shall be made to the credit of the above criminal revision cases and on such deposit, the Registry is directed to investigate the same in fixed deposit which earning reasonable interest with the Indian Bank, Madras High Court Branch, Chennai, initially for a period of one year and to be renewed from time to time.

28. With the above observations, all the criminal miscellaneous petitions are disposed of.

-sd/-
04/09/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE I ADDITIONAL SESSIONS
JUDGE, TIRUVALLUR.

2 THE FAST TRACK COURT
(MAGISTERIAL LEVEL), TIRUVALLUR.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

4 THE SECTION OFFICER,
ACCOUNT SECTION,
HIGH COURT, MADRAS.

5 THE BRANCH MANAGER,
INDIAN BANK,
MADRAS HIGH COURT BRANCH,
CHENNAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.
[FOR INFORMATION]

+2C.C. to M/S.PRASAD VIJAYAKUMAR Advocate on payment of
necessary charges in SR.NO. 16814

+1C.C. to M/S.MOHAMED RAFI Advocate on payment of necessary
charges in SR.NO. 16812

+1C.C. to M/S.M.MURALI Advocate on payment of necessary
charges in SR.NO. 16811

+1C.C. to M/S.NANCHILL J RAJKUMAR Advocate on payment of
necessary charges in SR.NO. 16790

Order

in

CRL.MP.Nos.7677,8574,7678,8575,8767,

8768,6128,6131 AND 8608 of 2018

IN CRL RC.NOS.509,511 AND 744 OF 2018

Date :04/09/2018

From 7.2.2001 the Registry is issuing certified
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MLT-07/09/2018

सत्यमेव जयते

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