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\$~46 to 50 (common order)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

- + CRL.M.C. 3662/2019 and Crl.M.A.32230/2019
- + CRL.M.C. 3663/2019 and Crl.M.A.32233/2019
- + CRL.M.C. 3664/2019 and Crl.M.A.32236/2019
- + CRL.M.C. 3665/2019 and Crl.M.A.32239/2019
- + CRL.M.C. 3666/2019 and Crl.M.A.32242/2019

M/S SEW INFRASTRUCTURE LTD. & ANR Petitioners

Through: Mr. Mohit Mathur, Senior Advocate with
Mr. Jitender Kumar Jha, Mr. Sanjeev Kumar
Sharma, Mr. Sarsij N. & Mr. Rajeev,
Advocates

versus

M/S DILIGENT FARMS DEVELOPERS PVT. LTD..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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29.07.2019

Crl. M.A.32231-32232/2019 (exemption) in CRL.M.C. 3662/2019
Crl. M.A.32234-32235/2019 (exemption) in CRL.M.C. 3663/2019
Crl. M.A.32237-32238/2019 (exemption) in CRL.M.C. 3664/2019
Crl. M.A.32240-32241/2019 (exemption) in CRL.M.C. 3665/2019
Crl. M.A.32243-32244/2019 (exemption) in CRL.M.C. 3666/2019

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

CRL.M.C. 3662/2019 and Crl.M.A.32230/2019 (stay)
CRL.M.C. 3663/2019 and Crl.M.A.32233/2019 (stay)
CRL.M.C. 3664/2019 and Crl.M.A.32236/2019 (stay)
CRL.M.C. 3665/2019 and Crl.M.A.32239/2019 (stay)
CRL.M.C. 3666/2019 and Crl.M.A.32242/2019 (stay)

CRL.M.C. 3662/2019 etc.

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been compared and the digital data is as per
the physical file and no page is missing.

On the complaints (CC Nos.611545/2016, 612210/2016, 612196/2016, 612180/2016 and 612209/2016), of the respondent after trial, the petitioners herein were held guilty and convicted for offences under section 138 of the Negotiable Instruments Act, 1881 respecting, in all, twelve cheques. By similar orders passed on 03.05.2019, the trial court awarded substantive sentences of imprisonment for terms specified and also directed fine to be paid, the substantive part of which is intended to go as compensation to the complainant, the amount in all five cases calculated to be in the sum of Rs.47 crores.

The judgments of conviction and orders on sentence in the said five cases are presently subject matter of challenge in Criminal Appeals (Nos.308/2019, 309/2019, 310/2019, 314/2019 and 316/2019) pending in the court of additional sessions Judge, South-East District. The petitioners had moved the said appellate court for suspension of sentence under section 389 Cr.P.C. By order dated 31.05.2019, which is common to all the said five cases, the first appellate court has directed *as under:-*

"Sh. Sudhir Makkad, Ld. Senior Advocate for appellant further presses his application u/s. 389 CrPC for suspension of sentence and for bail during the pending of appeal. The disposal of appeal will take time. Accordingly, the sentence passed against the appellants is suspended and appellant No.2 is admitted to bail on furnishing personal bond in the sum of Rs.50,000/- with one surety of like amount to the satisfaction of Ld. Trial Court till pendency of appeal subject to deposit of 20% of the fine amount within six weeks before the Trial Court."

The petitioner has come up to this court by these petitions under section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to question

the above mentioned order of the first appellate court, the prayer being restricted at the hearing to the exception as to the time that has been granted, reference being made to the provision contained in section 148 of the Negotiable Instruments Act, 1881.

The issue raised is with reference to a statutory provision whereunder the first appellate court, if it was imposing such condition as above, in exercise of its judicial discretion, ought to have considered appropriate time for compliance which, as per section 148(2), may extend to sixty days in the first instance and which may be extended further by thirty days, upon sufficient cause being shown to the court.

Given the above limited issue, and the clear statutory prescription, it being a matter essentially between the court and the petitioners, there is no need for formal notice to be issued to the respondent. The learned senior counsel submitted at the outset that the petitioners seek time for compliance with the condition of deposit in terms of the orders of the appellate court only till 31.08.2019.

Given the amount of money which is involved, the request being reasonable, accepting the undertaking that the petitioners will deposit the amount in strict compliance on or before 31.08.2019, the prayer to that extent stands granted.

This disposes of the petitions and the applications filed therewith.

A copy of this order shall, however, be served by the petitioners on the complainant as well.

Dasti under the signatures of Court Master.


R.K. GAUBA, J.

JULY 29, 2019/vk

CRL.M.C. 3662/2019 etc.