



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the Eleventh day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION Nos.1389 & 1393 of 2022

IN

CRL.R.C.Nos.155 & 156/2022

1 M/S.S.A.S.TEXTILES
REP BY ITS PARTNER,S. SENNIYAPPAN

[PETITIONERS IN
CRL.R.C.Nos.155 & 156/2022]

2 S. SENNIYAPPAN,
PARTNER, M/S. S.A. STEXTILED

3 SATHEESH,
PARTNER, M/S. S.A. STEXTILES

Vs

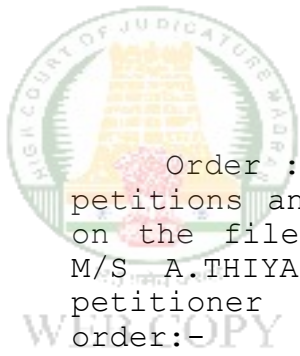
P.MAHAVEER
PROPRIETOR OF M/S. SRI KESAR TRADERS
REP BY HIS POWER AGENT RAJKUMAR JAIN

[RESPONDENT IN
CRL.RC.No.155/2022]

P.NAKUMAR
PROPRIETOR OF M/S. MAHAVEERA
REP BY HIS POWER AGENT RAJKUMAR JAIN

[RESPONDENT IN
CRL.RC.No.156/2022]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case Nos.155 & 156/2022 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgement dated 30.07.2021 in C.A. Nos. 134 & 133 of 2016 on the file of II Additional District and Sessions Judge, Tiruppur confirming the conviction imposed in Judgement dated 14.11.2016 S.T.C. Nos. 1452 & 1451 of 2006 on the file of the Judicial Magistrate I court, Tiruppur and enlarge the petitioner on bail pending disposal of the above CRL.RC.Nos.155 & 156/2022.



Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in CRL.RC.Nos.155 & 156/2022 on the file of the High Court and upon hearing the arguments of M/S A.THIYAGARAJAN Advocate for M/S. S.RAMESH, Advocate for the petitioner (IN BOTH THE PETITIONS) the court made the following order:-

These petitions have been filed to suspend the sentence of imprisonment imposed by judgment dated 30.07.2021 in CrI.A.Nos.134 & 133 of 2016 on the file of the II Additional District and Sessions Judge, Tiruppur, confirming the conviction imposed by judgment dated 14.11.2016 in STC.Nos.1452 & 1451 of 2006 on the file of the Judicial Magistrate No.I, Court, Tiruppur and enlarge the petitioners on bail pending disposal of the above Criminal Revisions cases before this Court.

2. The petitioners are the accused in a private complaint filed by the respondent under Section 138 of Negotiable Instruments Act, in STC.Nos.1451 & 1452 of 2006 and they were convicted by the trial Court and sentenced to pay the cheque amount of Rs.2,00,000/- as compensation.

3. The contention of the petitioners is that PW1 is the Power of Attorney of the complainant and he had filed proof affidavit. In the proof affidavit, there is no mention that he was aware about all the business trading between the petitioners and the respondent. He verbatim repeats what was stated in the complaint and he was not aware about the above facts of the case in the cross-examination admits, he has no knowledge about the transaction and also the persons, who filled up the cheque and Invoices and other documents filed in this case. One of the accused A2/S.Senniyappan examined himself as DW2, who also denied the signatures found in the Invoices. The case of the petitioners is that no cotton yarn was supplied as per the Invoices and the cheque issued for the earlier transaction has been misused. The petitioners had rebutted initial presumption and thereafter, no positive evidence has been let in by the respondent. The trial Court as well as the Lower Appellate Court had not addressed the issue. Based on the evidence of PW1, who is only Power of Attorney, no conviction can be made.

4. Finding force in the submission of the learned counsel for the petitioners, it is a commercial dispute, this Court is inclined to grant suspension of sentence.

5. Taking into consideration of the above facts and circumstances of the case, this Court is inclined to suspend the sentence imposed on the petitioners.



6. Accordingly, the sentence of imprisonment alone is suspended and the petitioners shall be released on bail on each of them executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.I, Tiruppur and on further condition that the petitioners shall report before the trial Court on the first working day of every month at 10.30 a.m, pending disposal of the Criminal Revision Petitions.

-sd/-

11/02/2022

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 JUDICIAL MAGISTRATE,
NO.I, TIRUPPUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR (FOR INFORMATION)

3 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUPPUR

C.C. to M/S. S.RAMESH Advocate on payment of necessary charges
SR.2273

Order

in

CRL MP.Nos.1389 & 1393 of 2022

IN CRL.R.C.Nos.155 & 156/2022

Date :11/02/2022

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RVR 18/02/2022