



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fifth day of January Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos.13629, 13630, 13637, 13633 and
13632 of 2021

in Crl.R.C.Nos.650, 651 of 2020, 1275 to 1277 of 2019

1 J.Z.LEATHER IMPEX [PETITIONERS
REP.BY ITS PARTNER, IN ALL THE PETITIONS]
S.JAMEEL AHAMED

2 S.JAMEEL AHAMED
PARTNER, J.Z.LEATHER IMPEX

3 M.ZAKEER HUSSAIN
PARTNER, J.Z.LEATHER IMPEX

Vs

M.HUSSAIN ALI [RESPONDENT
PROPRIETOR, IN CRL.M.P.Nos.13629 & 13630/2021
MUTHU LEATHER INDUSTRIES IN CRL.RC.NO.650 & 651/2020]

T.S.P.DHAMODHARAN, [RESPONDENT
REPRESENTED BY HIS MANAGER & POWER AGENT IN CRL.M.P.13637/2021
B.FARMANHULLAH. IN CRL.RC.NO.1275/2019]

A.S.MUFEETH AHAMED, [RESPONDENT
REPRESENTED BY ITS MANAGER & POWER AGENT IN CRL.M.P.13633/2021
A.SHEIK ABDULLAH. IN CRL.RC.NO.1276/2019]

B.FARMANULLAH, [RESPONDENT
PROPRIETOR. IN CRL.M.P.13632/2021
IN CRL.RC.NO.1277/2019]



Petitions praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

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(i) permit the petitioner and the respondent to compound the offence under section 138 of Negotiable Instruments Act in Crl.R.C.Nos.650, 651 of 2020, 1275 to 1277 of 2019 respectively. [IN CRL.MP.NOs.13629, 13630, 13637, 13633 and 13632 of 2021 IN CRL.RC.Nos.650, 651 of 2020, 1275 to 1277 of 2019]

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.SURESH, Advocate for the petitioner [IN ALL THE PETITIONS] and of MR. C.E.PRATAP, Govt. Advocate (Crl. Side) on behalf of the Respondent [IN CRL.MP.NOs.13629, 13630/2021 IN CRL.RC.NOs.650,651/2020] and of M/S.M.GURUPRASAD, Advocate for respondents [IN CRL.MP.NOs.13637, 13633 and 13632 of 2021 IN CRL.RC.NOS.1275 to 1277 of 2019] the court made the following order:-

The above Criminal Miscellaneous Petitions have been filed seeking permission of the court to compound the offence punishable under Section 138 of the Negotiable Instruments Act.

2. On the complaints made by the respective respondents herein for the dishonour of cheques and non payment of dues to them, the petitioners in the Criminal Revision Cases viz., a Partnership Firm known as M/s.J.Z.Leaner Impex, Vellore and its two Partners stand convicted and sentenced in S.T.C.Nos.206, 129, 128 and 130 of 2018 on the file of Judicial Magistrate (Fast Track Court I), Erode.

3. The conviction and sentence of the petitioners as awarded by the Trial Court are as under:-

S.T.C.No.	Sentence
206 of 2018	A2 and A3 to undergo simple imprisonment for 3 months each; A1 to A3 to pay compensation of Rs.10,00,000/- in default A2 and A3 to undergo simple imprisonment for a further period of one month
129 of 2018	A2 and A3 to undergo simple imprisonment for one year each; A1 to A3 to pay compensation of Rs.24,92,462/- in default A2 and A3 to undergo simple imprisonment for a further period of two months



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S.T.C.No.	Sentence
128 of 2018	A2 and A3 to undergo simple imprisonment for one year each; A1 to A3 to pay compensation of Rs.16,74,423/- in default A2 and A3 to undergo simple imprisonment for a further period of two months
130 of 2018	A2 and A3 to undergo simple imprisonment for one year each; A1 to A3 to pay compensation of Rs.26,83,019/- in default A2 and A3 to undergo simple imprisonment for a further period of two months

4. On appeals filed by the petitioners/accused in Criminal Appeal Nos.190, 56, 55 and 57 of 2019 challenging the conviction and sentence and Criminal Appeal No.235 of 2019 filed by the de facto complainant seeking enhancement of sentence, the II Additional District and Sessions Court, Erode, had confirmed the conviction and sentence awarded by the Trial Court in respect of other three cases by dismissing Criminal Appeal Nos.56, 55 and 57 of 2019, and had enhanced the sentence awarded by the Trial Court from three months simple imprisonment to one year simple imprisonment by dismissing Criminal Appeal No.190 of 2019 and allowing Criminal Appeal No.235 of 2019.

5. When the matters were taken up for hearing on 11.1.2022, it was brought to the notice of the court by the learned counsel for the petitioners that since the petitioners were unable to pay the cheque amounts nor furnish immovable property security, they are undergoing imprisonment despite the fact that they had been granted suspension of sentence and that the second petitioner, S.Jameel Ahamed is suffering from Hypermature Cataract and had become partially blind and the third petitioner, M.Zakeer Hussain is suffering from Blood Cancer (Non Hodgkins Lymphoma) and considering the grievance of the petitioners, the respondents/de facto complainants in all these cases had agreed for a settlement with the petitioners by receiving 30% of the cheque amount as full and final settlement and they have also agreed to compound the cases.

6. Though the Apex Court in Damodar S.Prabhu v. Sayed Babalal.H ((2010) 5 SCC 663) insists for deposit 15% of the cheque amount at the time of compounding, the learned counsel for the petitioners sought for indulgence of this court and to permit the petitioners to deposit 5% of the settlement amount alone and for waiver of the remaining amount considering the poor economic status and the poor health condition of the petitioners. He had also submitted that the petitioners were ready with the Demand Drafts in respect of 5% of the settlement amounts to deposit the same before the Registry.



7. The amounts payable by the petitioners, the amounts arrived at for settlement and the cost at the rate of 5% on the settlement amount as presented by the learned counsel for the petitioners are as under:-

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Criminal Revision Case	Cheque amount	30% of cheque amount	5% cost on the settled amount
650 & 651 of 2020	Rs.20,85,686/-	Rs.6,25,706/-	Rs.31,286/-
1275 of 2019	Rs.24,92,462/-	Rs.7,47,739/-	Rs.37,387/-
1276 of 2019	Rs.16,74,423/-	Rs.5,02,327/-	Rs.25,117/-
1277 of 2019	Rs.26,83,019/-	Rs.8,04,906/-	Rs.40,246/-

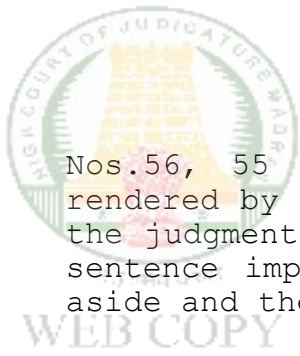
8. Considering the loss in business suffered by the petitioners and the health issues of petitioners 2 and 3, as expressed by the learned counsel for the petitioners, the petitioners were directed to deposit the demand drafts for 5% of the settled amounts alone before the Registry.

9. When the matters were taken up today, the learned counsel for the petitioners would submit that in compliance of the direction of this court, Demand Drafts bearing Nos.683380, 683381, 683379 and 683382 dated 18.12.2021 have been tendered before the Registrar General, High Court, Madras and cost memos have been filed and he also prayed that the compounding petitions may be allowed.

10. It is seen that alongwith the petitions seeking to compound the offence, Joint Compromise Petitions have been filed by the petitioners duly signed by the petitioners/accused and the respective de facto complainants and the learned counsel appearing for the parties vouching that the petitioners/accused and the de facto complainants had arrived at an amicable settlement of the entire issue and the respective de facto complainants agree to receive 30% of the cheque amount towards full and final settlement and there shall be no further claim or litigations from either party and thereby, they are no more interested in prosecuting the Criminal Revision Cases and the de facto complainants have no objection in compounding the offence.

11. Affirming the submissions made by the learned counsel for the petitioners, the respective learned counsel appearing for the de facto complainants would submit that the de facto complainants had agreed to receive the settlement amounts and that they have no objection in compounding the offence.

12. In view of the above, the offence stands compounded under Section 147 of the N.I. Act and the judgments passed by the II Additional District and Sessions Court, Erode in Criminal Appeal



Nos.56, 55 and 57 of 2019 confirming the conviction and sentence rendered by the Trial Court in S.T.C.Nos.129, 128 and 130 of 2018 and the judgment in Criminal Appeal Nos.235 and 190 of 2019 enhancing the sentence imposed by the Trial Court in S.T.C.No.206 of 2018 are set aside and the accused are acquitted.

13. The Registrar General, High Court Madras is directed to deposit the Demand Drafts tendered by the petitioners/accused towards costs.

14. In the result, the above Criminal Miscellaneous Petitions are ordered.

-sd/-
25/01/2022

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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE.

2 THE JUDICIAL MAGISTRATE,
(FAST TRACK COURT I), ERODE.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE. [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.



COPY TO

1 THE REGISTRAR GENERAL
HIGH COURT, MADRAS.

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

C.C. to M/S.S.SURESH Advocate on payment of necessary charges

Order

in

CRL MP.Nos.13629, 13630, 13637, 13633 and 13632/2021

in

CRL RC.Nos.650, 651 of 2020, 1275 to 1277/2019

Date :25/01/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RW 25/01/2022