



Crl.O.P(MD)Nos.1843, 1858, 1862, 1864, 1866, 1867 & 1869 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P(MD)Nos.1843, 1858, 1862, 1864, 1866, 1867 & 1869 of 2020

and

Crl.M.P(MD)Nos.882, 897, 900, 902, 904, 906 & 909 of 2020

(In Crl.O.P(MD)No.1843 of 2020)

M.Sivasamy

**... Petitioner/
Accused**

Vs.

**M/s.Valampuri Investments,
Represented by its Working Partner,
R.Kathiresan.**

**... Respondent/
Complainant**

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.M.P.No.12217 of 2018 in C.C.No.567 of 2018 on the file of the Judicial Magistrate (Fast Track Court), Karur.

(In All Cases)

For Petitioner : Mr.K.Suresh

For Respondent : No appearance



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COMMON ORDER

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The petitioners are accused in complaints filed under Section 138 of the Negotiable Instruments Act. Pending trial, the trial Court directed the petitioners to deposit 10% of the cheque amount by virtue of power conferred under Section 143A of the Negotiable Instruments Act. The petitioners / accused, who are directed to deposit the interim compensation, challenge the said orders.

2. Though notice was served to the respondent, the respondent has not chosen to enter appearance before this Court.

3. The relevant dates pertaining to the complaints are found in the below mentioned chart:

S. No.	Case No.	Petitioner	Respondent	C.C.No.	Date of Dishonour	Date of Notice	Date of Receipt	Cause of action
1.	Crl.O.P(MD) No.1843 of 2020	M.Sivasamy	Valampuri Investments	567/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018
2.	Crl.O.P(MD) No.1858 of 2020	M.Sivasamy	Nagamani Leasings	565/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018
3.	Crl.O.P(MD) No.1862 of 2020	M.Sivasamy	Kannapiran Auto Finance	564/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018
4.	Crl.O.P(MD) No.1864 of 2020	M.Sivasamy	Nagamani Investment	563/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018
5.	Crl.O.P(MD) No.1866 of 2020	M.Sivasamy	Valampuri Auto Finance	568/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018
6.	Crl.O.P(MD) No.1867 of 2020	M.Sivasamy	Nagamani Auto Finance	566/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018
7.	Crl.O.P(MD) No.1869 of 2020	M.Sivasamy	Kariyan Leasings	562/2018	12.06.2018	10.07.2018	14.07.2018	29.07.2018

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4. The common question involved in all these petitions is whether the learned Judicial Magistrate is empowered to direct the accused to pay interim compensation under Section 143A of the Negotiable Instruments Act for offences that were committed prior to the introduction of said Section in the Negotiable Instruments Act.

5. A reading of the complaints in all these petitions would show that the statutory notice was issued on 10.07.2018, which was received by the petitioners on 14.07.2018. The cause of action for initiating the complaints arose on 29.07.2018.

6. It is the contention of the learned Counsel for the petitioners that since the alleged offences have been committed on 29.07.2018, the provisions of Section 143A of the Negotiable Instruments Act, which was introduced on 01.09.2018 cannot be made applicable.

7. The learned Counsel for the petitioners relied upon a decision of the Hon'ble Apex Court in ***G.J.Raja Vs. Tejraj Surana*** reported in **2019 (19) SCC page 469** in support of the submission. The Hon'ble Apex Court had held in the said decision, that the applicability of Section 143A



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has to be prospective in nature and confined to cases where offences were committed after the introduction of Section 143A. The relevant portion of the judgment of the Hon'ble Apex Court in paragraph Nos.21 to 23 is extracted as follows:

"21. In our view, the applicability of Section 143-A of the Act must, therefore, be held to be prospective in nature and confined to cases where offences were committed after the introduction of Section 143-A, in order to force an accused to pay such interim compensation.

22. We must, however, advert to a decision of this Court in Surinder Singh Deswal Vs. Virender Gandhi where Section 148 of the Act which was also introduced by the same Amendment Act 20 of 2018 from 01.09.2018 was held by this Court to be retrospective in operation. As against Section 143-A of the Act which applies at the trial stage that is even before the pronouncement of guilt or order of conviction, Section 148 of the Act applies at the appellant stage where the accused is already found guilty of the offence under Section 138 of the Act. It may be stated that there is no provision in Section 148 of the Act which is similar to sub-Section (5) of Section 143-A of the Act. However, as a matter of fact, no such provision akin to sub-section (5) of Section 143-A was required as Sections 421 and 357 of the Code, which apply post-conviction, are



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adequate to take care of such requirements. In that sense said Section 148 depends upon the existing machinery and principles already in existence and does not create any fresh disability of the nature similar to that created by Section 143-A of the Act. Therefore, the decision of this Court in Surinder Singh Deswal stands on a different footing.

23. In the ultimate analysis, we hold Section 143-A to be prospective in operation and that the provisions of said Section 143-A can be applied or invoked only in cases where the offence under Section 138 of the Act was committed after the introduction of said Section 143-A in the statute book. Consequently, the orders passed by the trial Court as well as the High Court are required to be set aside. The money deposited by the appellant, pursuant to the interim direction passed by this Court, shall be returned to the appellant along with interest accrued thereon within two weeks from the date of this order."

8. We find from the impugned order that the learned Judicial Magistrate has not considered this issue and has directed the petitioners to pay the interim compensation which in our view is not in accordance with law.



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9. In view of the above settled position of law, this Court has no hesitation to hold that the orders impugned in the above petitions are liable to be set aside and hence, set aside. All these Criminal Original Petitions stand allowed. Consequently, connected Miscellaneous Petitions stand closed.

05.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr

To

1. Working Partner,
M/s. Valampuri Investments,
TAM Complex,
NRMP Street,
Covai Road,
Karur-2.
2. The Judicial Magistrate (Fast Track Court),
Karur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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