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CRL OP(MD) A



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Ninth day of January Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

Cr1.OP(MD)Nos.20511, 20569 and 20570 of 2022
in

Cr1.A(MD)No.SR.Nos.32440,32424 and 32436 of 2022

K.ULAGANATHA PILLAI

... PETITIONER/APPELLANT
IN ALL PETITIONS

Vs

1 M/S.HYCOUNT POLYMERS PRIVATE LIMITED,
NO.732, TNM ROAD, VADASERY, NAGERCOIL-1,
REPRESENTED BY ITS MANAGING DIRECTOR,
M.MOHAMED KABIR
(THE R2 AND DIRECTORS 3 TO 6 RESPONDENTS)

2 M.MOHAMED KABIR

3 M.MOHAMED KASIM SHAFEEQ

4 FERDOWS BEEVI

5 BEEVI FATHIMA FARSHANA

6 M.VADIVEL MURUGAN

7 THE STATE OF TAMIL NADU,
REP.BY THE PUBLIC PROSECUTOR
NAGERCOIL.

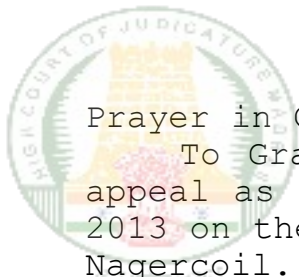
... RESPONDENTS/RESPONDENTS
IN ALL PETITIONS

Prayer in CRL OP(MD).20511/2022 in CRL A(MD)SR.No.32440/2022 :

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Grant Special Leave to the petitioner to file the Criminal appeal as against judgment dated 25.09.2015 passed in C.C.No.222 of 2013 on the file of the Judicial Magistrate (Fast Track Court No.1), Nagercoil.

Prayer in CRL A(MD)SR.No.32440/2022 :

To call for the records relating to the judgment dated 25.09.2015 made in C.C.No.222 of 2013 on the file of the Judicial Magistrate (Fast Track Court No.1), Nagercoil acquitting the Respondents/Accused to set aside the same as illegal and allow the above appeal.



Prayer in CRL OP(MD).20569/2022 in CRL A(MD)SR.No.32424/2022 :

To Grant Special Leave to the petitioner to file the Criminal appeal as against judgment dated 25.09.2015 passed in C.C.No.221 of 2013 on the file of the Judicial Magistrate (Fast Track Court No.1), Nagercoil.

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Prayer in CRL A(MD)SR.No.32424/2022 :

To call for the records relating to the judgment dated 25.09.2015 made in C.C.No.221 of 2013 on the file of the Judicial Magistrate (Fast Track Court No.1), Nagercoil acquitting the Respondents/Accused to set aside the same as illegal and allow the above appeal.

Prayer in CRL OP(MD).20570/2022 in CRL A(MD)SR.No.32436/2022 :

To Grant Special Leave to the petitioner to file the Criminal appeal as against judgment dated 25.09.2015 passed in C.C.No.224 of 2013 on the file of the Judicial Magistrate (Fast Track Court No.1), Nagercoil.

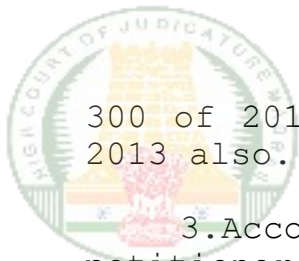
Prayer in CRL A(MD)SR.No.32436/2022 :

To call for the records relating to the judgment dated 25.09.2015 made in C.C.No.224 of 2013 on the file of the Judicial Magistrate (Fast Track Court No.1), Nagercoil acquitting the Respondents/Accused to set aside the same as illegal and allow the above appeal.

ORDER : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.MURUGAN, Advocate for the petitioner in all petitions and of MR.K.SATHIYA SINGH, Advocate on behalf of the Respondent Nos.3 to 5 in all petitions and MR.M.SAKTHI KUMAR, Government Advocate (Crl.Side) on behalf of the 7th Respondent in all petitions, the Court made the following order:-

This Criminal Original Petitions are filed seeking special leave to the petitioner to file the criminal appeals.

2.Total amount involved in the above said transaction is Rs.38.40 Lakhs. According to the complainant, totally five cheques have been issued by A2, A3 and A4 on behalf of the company to discharge the liability on various dates namely 22/07/2021, 01/04/2021 and 23/12/2021, 23/12/2011 and 23/12/2011. While presenting the cheques for payment, all those cheques were returned dishonoured and so after completing the legal formalities, CC Nos.221, 222, 223, 224 and 300 of 2013 have been filed before the trial court. All the cases have been disposed. Common argument was advanced in all the matters, in CC No.221 and 223 of 2013 and all the cases have been acquitted. But so far as CC Nos.223 and 300 of 2013 are concerned, A4 was acquitted. A2 and A3 were convicted. So according to the petitioner when five cases were filed on different



300 of 2013 might have been followed in CC No.221, 222 and 2013 also.

3. According to the learned counsel appearing for the petitioner, the signatures are admitted, the second respondent is the Director of the Company and certificate of incorporation was also enclosed. But in spite of that a wrong finding has been recorded by the trial court.

4. Per contra, the learned counsel appearing for the respondent would submit that during the course of trial process, this respondent colluded with the petitioner and the signature has been disputed by the respondent.

5. Perusal of the judgment shows that as mentioned above common argument has been advanced.

6. So in this circumstances, I am of the considered view that the petitioner is entitled to file the appeal.

7. In the result, the criminal original petitions are **allowed** and accordingly, leave is granted in all the petitions.

sd/-

09/01/2023

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/01/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE JUDICIAL MAGISTRATE, FAST TRACK COURT NO.1, NAGERCOIL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.MURUGAN R, Advocate (SR-580[I] dated 11/01/2023)

ORDER IN

CrI.OP(MD) Nos.20511, 20569 20570/2022

in

CrI.A(MD) No.SR.Nos.32440,32424 & 32436/2022

Date :09/01/2023