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Crl.A.Nos.1023 to 1026 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.A.Nos.1023 to 1026 of 2024

Crl.A.No.1023 of 2024

M/s.Hinduja Leyland Finance Limited,
Having their Corporate Office at No.27A,
Developed Industrial Estate, Guindy,
Chennai – 600 032 and
Regional Office at No.166 and 169,
Anna Salai, Little Mount, Saidapet,
Chennai-600 015.

Represented by its Authorised
representative Mr.Sabapathy.N

... Appellant

Vs.

1.Abhimanyuyukejriwal

2.M/s.Parijat Vyapaar Private Limited,
Rep by its Director Mahesh Kumar Kejriwal
12A, Netaji Subhash Road, 5th Floor,
Suit No.12, Kolkata – 700001.

3.Mahesh Kumar Kejriwal

... Respondents



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Crl.A.No.1024 of 2024

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M/s.Hinduja Leyland Finance Limited,
Having their Corporate Office at No.27A,
Developed Industrial Estate, Guindy,
Chennai – 600 032 and
Regional Office at No.166 and 169,
Anna Salai, Little Mount, Saidapet,
Chennai-600 015.

Represented by its Authorised
representative Mr.Sabapathy.N

... Appellant

Vs.

1.SiddharthaKejriwal

2.M/s.Pioneer Barter Private Limited,
Rep. by its Managing Director,
Mahesh Kumar Kejriwal,
No.12A, Netaji Subhash Road, 5th Floor,
Room No.12, Kolkata,
West Bengal – 700001.

... Respondents

Crl.A.No.1025 of 2024

M/s.Hinduja Leyland Finance Limited,
Having their Corporate Office at No.27A,
Developed Industrial Estate, Guindy,
Chennai – 600 032 and
Regional Office at No.166 and 169,
Anna Salai, Little Mount, Saidapet,



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Chennai-600 015.

Represented by its Authorised
representative Mr.Sabapathy.N

... Appellant

Vs.

1.M/s.Vedicaa Suppliers Private Limited,
Rep by its Authorised person
Mr.Mahesh Kumar Kejriwal,
No.12A, Netaji Subhash Road, 5th Floor,
Suit No.12, Kolkata – 700001.

2.Mahesh Kumar Kejriwal,
Authorised person of
M/s.Vedicaa Suppliers Private Limited,
No.12A, Netaji Subhash Road, 5th Floor,
Suit No.12, Kolkata – 700001.

3.Mahesh Kumar Kejriwal

... Respondents

Crl.A.No.1026 of 2024

M/s.Hinduja Leyland Finance Limited,
Having their Corporate Office at No.27A,
Developed Industrial Estate, Guindy,
Chennai – 600 032 and
Regional Office at No.166 and 169,
Anna Salai, Little Mount, Saidapet,
Chennai-600 015.

Represented by its Authorised
representative Mr.Sabapathy.N

... Appellant



Crl.A.Nos.1023 to 1026 of 2024

Vs.

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- 1.M/s.Abhhijit Infraa Projects Private Limited,
Rep by its Director Mr.Abhimanyu Kejriwal,
Having its registered office at
777/1, SaratChaterjee Road,
Shibpur, 2nd Floor,
Flat 2C, Howrah – 711 101.
- 2.Abhimanyu Kejriwal,
Director of M/s.Abhhijit Infraa Projects Private Limited,
777/1, SaratChaterjee Road,
Shibpur, 2nd Floor,
Flat 2C, Howrah – 711 101.
- 3.Rakesh Sharda
Director of M/s.Abhhijit Infraa Projects Private Limited,
777/1, SaratChaterjee Road,
Shibpur, 2nd Floor,
Flat 2C, Howrah – 711 101.
- 4.Abhimanyu Kejriwal ... Respondents

Common Prayer: Criminal Appeals filed under Section 378 of Cr.P.C. praying to call for the records of the order passed in S.T.C.Nos.1957, 1955, 1956 & 1958 of 2021 dated 05.08.2023, respectively, on the file of Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai and set aside the same by allowing the criminal appeals and consequently restore the complaints on the file of the learned Metropolitan Magistrate, FTC-II, Egmore, Chennai.



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For Appellant : Mr.V.Balasubramani
in all Crl.As.

For Respondents : Mr.Mohammed Mudassir Ali
in all Crl.As.

COMMON JUDGMENT

These appeals have been filed challenging the order passed in S.T.C.Nos.1957, 1955, 1956 & 1958 of 2021 dated 05.08.2023, respectively, on the file of Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai and consequently to restore the complaints on the file of the learned Metropolitan Magistrate, FTC-II, Egmore, Chennai.

2.The learned counsel for appellant/complainant submitted that the appellant-company filed a private complaint for offence under Section 138 of the Negotiable Instruments Act against the respondents in S.T.C.Nos.1957, 1955, 1956 & 1958 of 2021, respectively. The complaints were dismissed for non payment of process batta under Section 204(4) r/w 256 of Cr.P.C.



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3.The contention of the learned counsel for appellant is that the appellant had been taking diligent steps to prosecute the case. The summons unable to be served, since the respondents are residing in Kolkata. The appellant unable to get the status of the summons within the next hearing date and each time the appellant is taking summons and the same is unable to be served. The respondents/accused have been successfully evading the summons. Though the appellant represented these facts, the trial Court failed to consider the same on the other hand dismissed the complaints.

4.It is seen that the complaints were dismissed on technical grounds for non payment of process batta. Hence, no prejudice would be caused to the respondents in the event of restoring the complaints. Hence, notice to the respondents dispensed with.

5.On the submission made by the learned counsel for appellant and on perusal of the material, it is seen that the complaints were dismissed for



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non payment of process batta and not on merits. Further, it is seen that the accused are residing in Kolkata. Naturally there will be some difficulty in serving summons outside the State. In view of the same, this Court accepts the reason given by the appellant.

6. Accordingly, the impugned orders dated 05.08.2023 passed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai are set aside and the petitions/complaints in S.T.C.Nos.1957, 1955, 1956 & 1958 of 2021 are restored on the file of Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai.

7. The trial Court is directed to list the cases within a period of two weeks from the date of receipt of a copy of this order. The appellant to take process and the summons to be served through the Commissioner of Police, Kolkata, within a period of one week thereafter and sufficient time to be given for the summons to be delivered to the respondents. In the event of



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respondents evading service of summons, the trial Court is directed to issue

Non Bailable Warrant against the respondents and the Non Bailable Warrant

can be executed through the Commissioner of Police, Kolkata/jurisdictional

police and ensure the presence of the accused.

8. With the above directions, these Criminal Appeals are allowed.

09.08.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

Neutral citation: Yes/No

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To

1.The Metropolitan Magistrate,
Fast Track Court-II,
Egmore at Allikulam, Chennai.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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