



Crl.O.P.Nos.14983 & 14984 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.14983 &14984 of 2024

Babitha Singh,
Director,
M/s.Ambalica Agro Solutions Pvt Ltd.,
Registered Office: C-149, First Floor,
Maurya Lok Complex, Dak Bungalow Road,
Patna – 800 001, Bihar.

... Petitioner/Accused 2 & 3
in both cases

/versus/

M/s.Indian Potash Ltd,
Seethakathi Business Centre,
684-690, Anna Salai,
Chennai – 600 006.
Represented by its
Additional General Manager.

... Respondent/Complainant
in both cases

Common Prayer: Criminal Original Petitions have been filed under Section 482 of Cr.P.C., to set aside the portion of the order dated 28.11.2023 passed in Crl.M.P.Nos.30554 of 2023 & 30552 of 2023 in C.A.No.740 of 2023 by the Principal and Sessions Judge, City Civil Court, Chennai, currently on the file of the Learned IV Additional City Civil Court, Chennai, directing deposit of 20% out of the cheque amount and allow the petition as prayed for

For Petitioner : Mr.S.Akilan,
in both cases for Mr.Prakash Goklaney



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COMMON ORDER

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These Criminal Original Petitions are filed by the accused person facing trial for offence under Section 138 of N.I Act is before this Court seeking intervention in the conditional order imposed by the trial Court to deposit 20% of the cheque amount as pre-condition for suspension of sentence, pending disposal of the appeal.

2. It is contended by the petitioner that the said condition is onerous and therefore, same has to be modified.

3. On perusal of the records, this Court finds that the complainant has filed private complaint under Section 138 of N.I Act against these petitioners for issuing a cheque for a sum of Rs.8,64,19,454/- without sufficient fund. The trial Court has held the Company and its Director guilty of offence and sentenced to undergo six months S.I and to pay the cheque amount of Rs.8,64,19,454/- as compensation.

4. The petitioners have preferred appeal before the Sessions Court, Chennai and the same was admitted in Crl.A.No.740 of 2023.



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5. Pending appeal, the petitioners sought for suspension of sentence, the Lower Appellate Court allowed the application on condition that they should deposit 20% of the compensation amount within 60 days. The said condition is impugned before the High Court.

6. On perusal of the record, this Court finds that the liability has occurred during the course of business. The complainant is the supplier of Fertiliser, who had supplied goods worth Rs.8,64,19,454/- to the accused Company by name M/s.Ambalica Agro Solutions Pvt Ltd having failed to discharge the debt and cheque given for the purpose of dishonouring, the trial Court has held them guilty and sentenced them as stated above.

7. The Learned Counsel appearing for the petitioners, submitted that the trial Court ought not to have imposed the condition even at the threshold without going into the merits of the appeal and order has been passed mechanically and therefore, warrants interference.

8. This Court, on perusing the impugned order finds that the Lower Appellate Court, after considering the provisions of the N.I Act and the facts of



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the case, has ordered the petitioners to deposit 20% of the compensation amount. This condition is in accordance with Section 148 of N.I Act. There is no indication to hold that the said order was passed mechanically. Therefore, the petition to modify the condition is dismissed. However, taking note of the fact that while the impugned order of the Original Petition before the High Court, the petitioner has lost some time to comply the condition and therefore, time to deposit 20% of the compensation amount is extended till 19.07.2024.

9. With this observation, these Criminal Original Petitions are disposed of.

08.07.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

Copy to:-

1. The Principal and Sessions Judge, City Civil Court, Chennai.
2. The Learned IV Additional City Civil Court, Chennai.
3. The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN, J.



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