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Crl.R.C.No.455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.10.2024
PRONOUNCED ON : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.4359 of 2024 in
Crl.R.C.No.455 of 2024

1.Ms.Devadass Reddy Property Developers and Builders (PP Ltd.,
represented by its Managing Director of R.Devadass Reddy,
Old No.185, New No.435, T.H.Road,
Kaladipet, Chennai – 600019.

2.Mr.Devadass Reddy

... Petitioners / Petitioner

Vs.

M/s.EMGEE Infrastructure Holdings (India) Pvt. Ltd.,
Represented by Mr.Srinivasa Rao,
6/11, Prahathambal Street,
Nungambakkam,
Chennai-600 034.

... Respondent / Intervener

PRAYER : Criminal Miscellaneous Petition filed under Section 482 of Cr.P.C, to stay the operation of the order consequently to waiver the 20% of the disputed cheque amount to the respondent/complainant herein within one month from today., i.e., from 07.02.2024 by the common order passed by the learned VI Additional Sessions Judge, Chennai in Crl.M.P.No.6356 of 2022 in Crl.A.No.321 of 2019 dated 07.02.2024 and pending disposal of the above said Criminal Revision Petition.



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For Petitioners : Mr.S.N.Thangaraj

For Respondent : Mr.Mohit Kumar

ORDER

This Criminal Miscellaneous Petition is filed to stay the operation of the order consequently to waiver 20% of the disputed cheque amount to the respondent / complainant within one month from today, by the common order passed by the learned VI Additional Sessions Judge, Chennai in Crl.M.P.No.6356 of 2022 in Crl.A.No.321 of 2019 dated 07.02.2024, pending disposal of the above Criminal Revision Petition.

2. In this case, already a civil Suit C.S.No.609 of 2010 filed for recovery of Rs.5.50 Crores, which is pending. From the evidence of D.W.2 it is confirmed that the lands identified by the petitioner had been purchased by the complainant and thereafter sold to the Vikram Logistics. Though it might be an explanation that it is after dishonoured of the cheque, but the same cannot be ignored. Likewise, in Ex.P3 the annexures showing the survey number, patta number, extent of land identified by the petitioner has been submitted, which would show that the petitioner had not been idle and he identified certain of the properties and these facts and particulars have been given to the complainant.



Admittedly, the complainant company is in Hiderabad and the petitioner, who hails from the local area had identified the prospective lands for sale and furnished the same to the complainant / respondent. Further, in the case of ***Rakesh Ranjan Shrivastava Vs. State of Jharkhand and Another. Vs. State of Jarkant*** reported in ***2024, 4 SCC 419***, the Apex Court in para 20 has observed as follows:-

“20. Even Sub-section (1) of Section 148 uses the word "may". In the case of ***Surinder Singh Deswal v. Virender Gandhi***, this Court, after considering the provisions of Section 148, held that the word "may" used therein will have to be generally construed as "rule" or "shall". It was further observed that when the Appellate Court decides not to direct the deposit by the Accused, it must record the reasons. After considering the said decision in the case of ***Surinder Singh Deswal***, this Court, in the case of ***Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Limited and Ors.*** in paragraph 6, held thus:

6.What is held by this Court is that a purposive interpretation should be made of Section 148 NI Act. Hence, normally, the appellate court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the appellate court is satisfied that the condition of deposit of 20%



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will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the Appellant, exception can be made for the reasons specifically recorded.”

3. In view of the forgoing reasons, this Criminal Miscellaneous Petition is allowed and there shall be an order of interim stay of the operation of the order passed by the learned VI Additional Sessions Judge, Chennai in Crl.M.P.No.6356 of 2022 in Crl.A.No.321 of 2019 dated 07.02.2024, pending disposal of the above Criminal Revision Petition.

31.01.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
vv2/mpk

To

- 1.The VI Additional Sessions Judge,
Chennai.
- 2.The III Metropolitan Magistrate, Fast
Track Court No.III, Saidapet, Chennai.
- 3.The Public Prosecutor,
High Court, Chennai.



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M.NIRMAL KUMAR, J.

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Pre-Delivery Order made in
Crl.M.P.No.4359 of 2024 in
Crl.R.C.No.455 of 2024

31.01.2025