

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.2051 OF 2020

Between:

M/s.Tricon Fruit Products Ltd.,
Rep. by its Managing Director
and another.

... Petitioners

And

M/s.Progressive Nirman Pvt. Ltd.,
Rep. by its Director and others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 04.11.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No.2051 of 2020

% Dated 04.11.2022

M/s.Tricon Fruit Products Ltd.,
Rep. by its Managing Director
and another.

... Petitioners

And

\$ M/s.Progressive Nirman Pvt. Ltd.,
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... Respondents

! **Counsel for the Petitioners:** Sri C.Sharan Reddy

^ **Counsel for the Respondents:** Sri Sharad Sanghi for R1

Sri S.Sudershan, Additional

Public Prosecutor for R5

> **HEAD NOTE:**

? **Cases referred**

¹ AIR 2012 Supreme Court 1079

² AIR 2017 Supreme Court 4594.

THE HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No. 2051 OF 2020****ORDER:**

1. The petitioners/A1 & A2 are questioning the correctness of orders made in the CrI.R.P.No.88 of 2019, dt.03.02.2020, on the file of II Additional Metropolitan Sessions Judge, Hyderabad. The learned Sessions Judge confirmed the orders of the learned XII Special Magistrate, Erramanzil, Hyderabad, dt.15.05.2019 in CrI.MP.No.1442 of 2019 in C.C.No.231/2018, whereby the Learned Magistrate refused the cheque amount of Rs.17,21,250/- and Rs.50,000/- towards costs of compensation, which were filed by the accused at the stage of arguments along with petition under Section 258 of the Cr.P.C.

2. Learned Counsel for petitioners/A1 & A2 submits that the Learned Magistrate and the learned Sessions Judge erred in not considering the application made by the accused wherein they have furnished DDs for the cheque amount and also an additional amount of Rs.50,000/- towards compensation. Learned Magistrate ought to have directed the accused to accept the said cheques and stop proceedings under Section 258 of Cr.P.C. and consequently should have recorded acquittal.

3. On the other hand learned counsel for 1st respondent/complainant submits that the orders of the learned Magistrate and consequential confirmation of the said orders by the learned Sessions Judge are in accordance with law laid down by the Honourable Supreme Court, as such, needs no interference.

4. He further argued that the case was prosecuted in the year 2014 and at the stage of final arguments the said DDs were filed before the concerned Court and the learned Magistrate was right in holding that there is no consent of the complainant for which reason the petition filed under Section 258 of Cr.P.C. was dismissed. The said finding of the learned Magistrate is on the basis of the Judgment rendered by the Honourable Supreme Court in ***JIK Industries Limited and others v.Amarlal V.Jumani and another***¹.

5. Section 258 of Cr.P.C. reads as follows;

“258. Power to stop proceedings in certain cases.—In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such

¹ AIR 2012 Supreme Court 1079

stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.”

6. As per section 258 CRPC, in appropriate cases, the Magistrate has powers to stop the proceedings without pronouncing any Judgment and if the said orders which are made under Section 258 after evidence of witnesses, the Judgment of acquittal has to be pronounced. If witnesses are not examined, the accused has to be discharged.

7. Admittedly, the petitioners/A1 & A2 filed petition under Section 258 of Cr.P.C. along with the cheque amount and compensation of Rs.50,000/- placing reliance on the Judgment rendered by the Honourable Supreme Court in ***M/s.Meters and Instruments Private Limited and another v. Kanchan Mehta***². However, the learned Magistrate relied upon the Judgment of Honourable Supreme Court in ***JK Industries Limited (cited supra 1)***, to dismiss the petition of Petitioners.

8. In JIK Industries Limited case, it was held that unless the consent of the aggrieved person/Complainant is present, the offence cannot be compounded.

² AIR 2017 Supreme Court 4594.

9. In view of the heavy pendency of cases filed under Section 138 of the Negotiable Instruments Act, throughout the country, several steps are taken and directions given by the Hon'ble Supreme Court to reduce pendency.

10. The Honourable Supreme Court in case of ***M/s.Meters and Instruments Private Limited (cited supra 2)*** held that in regard to the magnitude of the cases pending under Section 138 of the Negotiable Instruments Act, certain directions would expedite the proceedings under Section 138 of the Negotiable Instruments Act. At para-18 (iii), the Honorable Supreme Court directed as follows;

“18(iii) Though compounding requires consent of both parties, even in absence of such consent, the Court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can in its discretion close the proceedings and discharge the accused.”

11. The Judgment in ***M/s.Meters and Instruments Private Limited (cited supra 2)*** is subsequent to the Judgment in ***JK Industries Limited***. Discretion is given to the concerned Court to close the proceedings and discharge accused in the event of being satisfied that the complainant in the case has been duly compensated. The said exercise can be undertaken during the course of trial in the Court below.

12. Hon'ble Supreme Court further held that the accused can make an application for compounding at first or second hearing in which case the Court ought to allow the same. However, while dealing with prayer of closing the proceedings after commencement of trial, discretion is left open to the Court to close the proceedings.

13. In the present case, the petitioners have committed an error in deciding the compensation and paying an amount of Rs.50,000/- in addition to the cheque amount. In terms of the directions of the Honourable Supreme court in ***M/s.Meters and Instruments Private Limited***, the petitioners/accused ought to have made an application seeking indulgence of the trial court in closing the proceedings and requesting the Court to arrive at a reasonable compensation and thereafter pay such compensation as decided by the trial Court pursuant to which the proceedings would be closed, in the absence of the consent of one of the parties.

14. In the said circumstances, the order of the learned II Additional Metropolitan Sessions Judge, Hyderabad in Cr1.R.P.No.88 of 2019, dt.03.02.2020, is set aside and consequently the orders of the learned XII Special Magistrate,

Erramanzil, Hyderabad, dt.15.05.2019 in Cr1.MP.No.1442 of 2019 in C.C.No.231/2018, are also set aside.

15. The learned Magistrate is directed to consider the prayer of the accused while deciding the quantum of compensation by the Court. Needless to say the discretion is left to the learned Magistrate to (i) decide the quantum of compensation to close the proceedings or (ii) conclude the proceedings as per procedure by delivering Judgment on the basis of evidence.

16. With the above direction, the Criminal Petition is disposed off.

As a sequel thereto, miscellaneous applications pending, if any, in this criminal petition, shall stand closed.

K.SURENDER, J

Dt.:04.11.2022

Note: LR copy to be marked.

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THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No. 2051 OF 2020

Dt. 04.11.2022

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