

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 433-437 OF 2012

Lifeline India Insurance Marketing Services Appellant(s)
Ltd. & Anr.

Versus

Mahendra Sadashiv Arolkar etc.etc. Respondent(s)

WITH

CRL APPEAL Nos.1105-1107/2012

ORDER

1. The appellants in these appeals are assailing the order dated 07.12.2009 passed by the High Court of Judicature at Bombay in Criminal Revision Application No.555/2009 which was disposed of along with Criminal Revision Application Nos.556, 557, 558 and 559/2009. The High Court through the said order has set aside the judgment dated 15.06.2009 passed by the learned Sessions Judge. It was held that the Criminal Case No.24/2004 (subsequently numbered as 18/2009) before the learned Magistrate may proceed. The complaint was filed against the appellants herein. The said order will relate to all

cases between the parties.

2. The brief facts shorn of details, which is sufficient for disposal of these appeals would indicate that the respondents to these appeals, had filed complaints before the learned Magistrate against the appellants herein under Sections 138 and 141 of the Negotiable Instruments Act (for short "N.I. Act") and under Sections 417 and 420 of IPC. The appellant No.1 in Criminal Appeal No.437/2012 is the Company while the appellant No.2 was arrayed as its Director. The appellant in Criminal Appeal Nos.1105-1107/2012 was also arrayed as the Director in the complaint filed by respondent No.2 herein. In the complaint filed before the Judicial Magistrate, First Class, Vengurla, the said appellants who are arrayed as the Directors of the appellant's Company filed applications seeking discharge from the proceedings. The said application on consideration was dismissed by the learned Magistrate.

3. The said appellants claiming to be aggrieved had filed Criminal Revision Application before the learned Sessions Judge, District Sindhudurg. The learned Sessions Judge allowed the said applications and discharged the said appellants herein who are arrayed as accused Nos. 2 and 3 to the criminal

complaint. The said order passed by the learned Sessions Judge was assailed by the respondent No.2 herein i.e., the complainant in the original proceedings before the Learned Magistrate. The High Court had issued notice to the parties. The appellants herein, namely the accused Nos. 2 and 3 despite being served with notice had failed to appear before the High Court. In that light, the High Court had proceeded to consider the matter on its merits.

4. In the said process, the High Court noticed that the appellant No.1 herein is a limited company and the appellant No.2 in Criminal Appeal Nos.433-437/2012 and the appellant in the Criminal Appeal Nos.1105-1107/2012 who were arrayed as accused Nos. 2 and 3 in the original proceedings are the Directors of the company and both of them had signed the cheques which were the subject matter of the complaint. Since, the said cheques were dishonoured by the banker, the Directors as signatories and being in-charge of the Management of the company would also be liable. While arriving at such conclusion, the High Court in fact has also kept in perspective the legal position by referring to earlier precedents. It is in that view, the High Court set aside the judgment passed by the

learned Sessions Judge.

5. When the SLP (Crl.) Nos. 3759-3763/2010 (from which Criminal Appeal Nos.433-437/2012 arose) were listed before this Court on 26.04.2010, this Court had noted the undertaking by the learned counsel for the petitioner and directed to deposit the amount of the dishonoured cheques which were the subject matter in Summary Case Nos.18 and 19 of 2009 within four weeks and issued notice subject to the said condition. Similarly, in SLP (Crl. Nos.5320-5322/2010 (from which Criminal Appeal Nos.1105-1107/2012 arose) this Court on 19.03.2010 had noted similar undertaking from the learned counsel for the appellant to deposit the amount of dishonoured cheque, in this case arising out of Summary Case Nos.17, 16 and 15 of 2009. The said Summary Cases were pending before the JMFC, Vengurla, District Sindhudurg. The said order has been complied and in Criminal Appeal Nos.433-437/2012 a sum of Rs.23,090/- has been deposited while in Criminal Appeal Nos.1105-1107/2012 a sum of Rs.1,56,355/- has been deposited. The respondent No.2 though served has not appeared before this Court.

6. In the above background, these appeals were taken up for

consideration. Though, the learned counsel for the appellants sought to assail the order passed by the High Court by contending that the accused Nos.2 and 3 before the learned Magistrate were not the Directors in-charge of the companies and therefore the proceedings ought not to have been entertained, we were unable to accept the said contention since the signatures on the cheques were undisputed and in any event all contentions on merits could only be urged as a defence in the proceedings before the learned Magistrate. In the said circumstances, keeping in view the fact that the proceedings were initiated by the complainant before the learned Magistrate as far back as in the year 2004 and since it would not be desirable for the accused nos. 2 and 3 in the said proceedings to stand trial at this stage, the learned counsel for the appellants offered to deposit an equal amount (Rs.23,090/- and Rs.1,56,355/-) respectively as has been deposited in both these cases at the earlier instance since in such event even if they had been found to be guilty and convicted, twice the cheque amount would constitute the maximum sentence that was provided under the provisions of the N.I. Act. Therefore, on such deposit the proceedings be closed before the learned Magistrate.

7. In view of the said submission, we are of the opinion that an appropriate order, in the facts and circumstances of these appeals would be to direct the appellants to deposit the further sum of Rs.23,090/- before the court of the learned Magistrate, Vengurla, District Sindhudurg in Summary Case No.18 and 19/2009. Similarly, the appellants shall deposit the further sum of Rs.1,56,355/- in the court of learned Magistrate, Vengurla, District Sindhudurg in Summary Case Nos.17, 16 and 15/2009. The said deposit be made in four weeks from this day. Further, the Registry of this Court is directed to transfer the sum of Rs.23,090/- and the sum of Rs.1,56,355/- which is in deposit before this Court with accrued interest if any, also to the Court of the learned Magistrate, Vengurla, District Sindhudurg to be accounted in Summary Case Nos. 18 and 19 of 2009 and Summary Case Nos.17, 16 and 15 of 2009 respectively. On receipt of the said amounts from this Court and the deposit made by the appellants, learned Magistrate is directed to order release of the entire amount in favour of the complainant, Shri Mahendra Sadashiv Arolkar and close the further proceedings in all the said cases bearing Summary Case Nos.15, 16, 17, 18 and 19 of 2009 and dispatch a report to the Registry of this Court.

8. All the above appeals are disposed of accordingly.
9. Pending application, if any, shall stand disposed of.

.....CJI.
(N.V. RAMANA)

.....J.
(A.S. BOPANNA)

.....J.
(HIMA KOHLI)

**New Delhi,
December 15, 2021**

ITEM NO.101

COURT NO.1

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s).433-437/2012

LIFE LINE INDIA INSURANCE MARKETING SERVICES
LTD. & ANR.

Appellant(s)

VERSUS

MAHENDRA SADASHIV AROLKAR ETC.ETC.

Respondent(s)

WITH

CrI.A. Nos. 1105-1107/2012 (II-A)

Date : 15-12-2021 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MS. JUSTICE HIMA KOHLI

For Appellant(s) Mr. Sushil Karanjkar, Adv.
Mr. Dhawesh Pahuja, Adv.
Mr. K. N. Rai, AOR

For Respondent(s) None

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.
Pending application, if any, shall stand disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file)