

AK-PDJS
AK CEMs
R.O.C.No. 1800/2002/F1

C I R C U L A R

Sub: Court-Criminal-Offences under Section 138 of the Negotiable Instrument Act by invoking the remission-G.O. issued by the State Government-Subordinate Judiciary would not invoke the remission G.O.-The Legislative Competence of the Union Government-Instructions Issued.

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It has been brought to the notice of the High Court that the Subordinate Judiciary frequently would give remission to the sentence of imprisonment for the offence under Section 138 of the Negotiable Instruments Act by invoking the G.Os. issued by the State Government, thereby directing the accused not to surrender to the Judicial Custody to undergo the period of sentence. On the strength of the guidelines given by the Apex Court, the High Court directed that the subordinate courts cannot invoke the remission G.O's issued by the State Government to give remission, to the sentence, that too, in the cases relating to the offences under the Negotiable Instrument Act, which is within the legislative competence of the Union Government.

The above principles have been laid down in the judgment of the High Court in Crl.R.C. 187/2001.

A copy of the Judgment of the High Court is communicated to all the subordinate criminal courts for their guidance.

p.t.o.

The Presiding Officers are required to strictly follow the Principle laid down in the above Judgment without any deviation in future.

The receipt of this Circular is required to be acknowledged at once.

HIGH COURT: MADRAS:

SD/- M.SUKUMAR,

DATED: 01-07-2002.

REGISTRAR (A.S.)

/True copy/ forwarded/ by Order/

4-7-2002
SPECIAL OFFICER (GROUPING)

To

1. All the Principal District and Sessions Judges. (w.e.)
(with request to communicate this circular to all the Presiding Officers under their control).
2. All the Addl. District Judge-cum-Chief Judicial Magistrates. (with request to communicate this circular to all the Presiding Officers under their control). (w.e.)
3. The Chief Metropolitan Magistrate, Egmore, Madras-8. (w.e.)
(with request to communicate this circular to all the Presiding Officers under their control).
4. The Principal Judge, City Civil Court, Madras. (w.e.)
(with request to communicate this circular to all the Presiding Officers under their control).
5. The Chief Judge, Court of Small Causes, Madras. (w.e.)
(with request to communicate this circular to all the Presiding Officers under their control).

+ Spare-5.

rs/3-7-2002