IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2018

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Criminal Appeal No.62 of 2014

Karthikeyan .. Appellant/Defacto Complainant

Versus

Mohammed Shakir .. Respondent/ Accused

Prayer: Criminal Appeal filed under Section 378(4) of Criminal Procedure Code, to set aside the order of acquittal passed against the respondent/accused in C.C.No.144 of 2012 dated 07.06.2013 passed by the Fast Track Court-I(Magisterial level), Coimbatore and to convict the respondent/accused.

For Respondent: Mr.M.Mohana Sundaram

JUDGMENT

This Criminal Appeal has been preferred against the order passed in C.C.No.144 of 2012 dated 07.06.2013 by the Fast Track Court-I(Magisterial level), Coimbatore.

2. This appellant has set the law in motion by filing a private complaint against the respondent for the alleged offence punishable under Section 138 of Negotiable Instruments Act, before the Court below. After the trial, the Trial Court has acquitted the accused.

3.Having aggrieved by the said acquittal, the appellant, who is the complainant/victim of the crime invoking section 378 of the Criminal Procedure Code, 1973 have preferred this appeal directly to this Court.

4.This kind of appeal preferred before this Court invoking Section 378 of the Code, arising out of acquittal, directly from the Trial Court, without approaching the first Appellate/Sessions Court in view of the amendment made to Section 372 of Criminal Procedure Code, have been dealt with by this Court, in a batch of cases, in the matter of Shanmugasundaram Vs. S.Mani (2017) 3 MLJ(Crl.) 591.

5.In the said judgment, following the decision of the Full Bench of this Court dated 05.04.2016, reported in the matter of S.Ganapathy V. N.Senthilvel(2016) 4 CTC 119: (2016) 3 MLJ (Crl) 641, this Court has directed that, those appeals be transferred to the concerned Principal Sessions Courts with a further direction either to try and dispose of the appeals or to transfer the same to the Additional Sessions Courts for disposal in accordance with the provision under Section 372 of the Code.

6.In view of the said Full Bench judgment of this Court, followed by the aforesaid judgment in Shanmugasundaram Vs. S.Mani (2017) 3 MLJ(Crl.) 591, this appeal also to be transferred to the concerned Principal District and Sessions Court, for appropriate action.

7.In view of the said judgment of the Full Bench as well as the other two orders of the learned respective single Judges and the order passed in Shanmugasundaram Vs. S.Mani case (cited supra), and also in view of the submissions made by the counsel appearing for the appellant, this Court is inclined to dispose of this appeal in the following terms:

(i)This criminal appeal is disposed of, along with connected original petitions and miscellaneous petitions (if any), by transferring the same to the concerned Principal Sessions Court;
(ii)On receipt of the transferred case, it is for the Sessions Court to take up and dispose the appeal or make over the same to the Additional Sessions Court for disposal, in accordance with law.
(iii)Before taking up the appeal by the Sessions Court concerned, due notices be served on both parties;
(iv)Since this appeal is pending from the year 2014 before this Court, priority can be given to this appeal for disposal, and accordingly, this appeal can be disposed of as expeditiously as possible.

8.Registry is directed to send the case bundle with all connected records of the lower Court, if any received, to the concerned Sessions Court forthwith.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Chief Judicial Magistrate,
   Fast Track Court-I,
   Coimbatore.

2. The Learned Principal
      Sessions Judge,
   Coimbatore District.

3. The Fast Track Court I
   (1st Magisterial Level)
   Coimbatore.

4. The Section officer
   Criminal Section, High Court, Madras.

5. The Public Prosecutor,
   High Court, Madras.

Crl A.No.62 of 2014

SR(CO)
SP(08/03/2018)