

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Criminal Appeal Nos.573 to 577 of 2015

- 1) P.Vivek,
Rep., by his Power Agent
P.R.Solaiyan,
Proprietor,
M/s.Velavan Papers,
No.39, Anderson Street, II Floor,
Chennai 600 001 ... Appellant/ Complainant in
Crl.A.No.573/2015
- 2) P.R.Solaiyan,
Proprietor,
M/s.Velavan Papers,
No.39, Anderson Street, II Floor,
Chennai 600 001 ... Appellant/ Complainant in
Crl.A.Nos.574 to 576/2015
- 3) T.Suresh,
Rep., by his Power Agent,
P.R.Solaiyan,
Proprietor,
M/s.Velavan Papers,
No.39, Anderson Street, II Floor,
Chennai 600 001 ... Appellant/ Complainant in
Crl.A.No.577/2015

Versus

S.Senthil,
Son of D.Sundraraman,
No.8, Sait Colony,
First Street, Egmore,
Chennai 600 008

.. Respondent/ Accused in all
Criminal Appeals

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Prayer in Crl.A.No.573 of 2015:

Criminal Appeal filed under Section 378 of Criminal Procedure Code, to call for the records and judgment in C.C.No.7312 of 2007 dated 20.06.2014 on the file of the Learned Metropolitan Magistrate, Fast Track Court, No.4, George Town, Chennai and set aside the same by allowing this Criminal Appeal.

Prayer in Crl.A.No.574 of 2015:

Criminal Appeal filed under Section 378 of Criminal Procedure Code, to call for the records and judgment in C.C.No.7284 of 2007 dated 20.06.2014 on the file of the Learned Metropolitan Magistrate, Fast Track Court, No.4, George Town, Chennai and set aside the same by allowing this Criminal Appeal.

Prayer in Crl.A.No.575 of 2015:

Criminal Appeal filed under Section 378 of Criminal Procedure Code, to call for the records and judgment in C.C.No.7282 of 2007 dated 20.06.2014 on the file of the Learned Metropolitan Magistrate, Fast Track Court, No.4, George Town, Chennai and set aside the same by allowing this Criminal Appeal.

Prayer in Crl.A.No.576 of 2015:

Criminal Appeal filed under Section 378 of Criminal Procedure Code, to call for the records and judgment in C.C.No.7283 of 2007 dated 20.06.2014 on the file of the Learned Metropolitan Magistrate, Fast Track Court, No.4, George Town, Chennai and set aside the same by allowing this Criminal Appeal.

Prayer in Crl.A.No.577 of 2015:

Criminal Appeal filed under Section 378 of Criminal Procedure Code, to call for the records and judgment in C.C.No.7311 of 2007 dated 20.06.2014 on the file of the Learned Metropolitan Magistrate, Fast Track Court, No.4, George Town, Chennai and set aside the same by allowing this Criminal Appeal.

For Appellant : Mr.B.R.Shankaralingam

C O M M O N J U D G M E N T

As the issue involved in all the five Criminal Appeals is one and the same, the cases are taken up for disposal by this Common Judgment.

2. These Criminal Appeals have been preferred against the orders passed in C.C.Nos.7312,7284,7282,7283 and 7311 of 2007 dated 20.06.2014 on the file of the Learned Metropolitan Magistrate, Fast Track Court, No.4, George Town, Chennai.

3. These appellants have set the law in motion by filing private complaints 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.

4. Having aggrieved by the said acquittal, the appellants, who are the complainant/victims of the crime invoking section 378 of the Criminal Procedure Code, 1973 have preferred these appeals directly to this Court.

5. These kind of appeals 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.

6. 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.

7. 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.

8. 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), this Court is inclined to dispose of these appeals in the following terms:

(i) These criminal appeals are 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 appeals or make over the same to the Additional Sessions Court for disposal, in accordance with law.

(iii) Before taking up the appeals by the Sessions Court concerned, due notices be served on both parties;

(iv) Since these appeals are pending from the year 2015 before this Court, priority can be given to these appeals for disposal, and accordingly, these appeals 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.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Metropolitan Magistrate,
Fast Track Court, No.4,
George Town, Chennai
2. The Principal Sessions Judge,
George Town, Chennai.
3. The Public Prosecutor,
High Court, Madras.

CrI A.Nos.573 to 577 of 2015

CS/20/03/18

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