

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2018

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.A.No.751 of 2006

1. P.S.K.Financiers,
Rep. by Managing Partner, T.K.Kuppusamy
Rep. by Power of Attorney Holder, M.Ramasamy.
2. P.S.K.Finance & Chit Funds Corporation,
Rep. by its Partner, M.Ramasamy.
3. K.Nirmala Bankers,
Rep. by Managing Partner, K.Nirmala,
by Power of Attorney Holder, M.Ramasamy.
4. T.K.K.Finance Corporation,
Proprietor - T.K.Kuppusamy-
Power of Attorney Holder, M.Ramasamy.
5. K.Lavanya,
Proprietorship Concern,
Rep.by Power of Attorney Holder, M.Ramasamy.
6. K.Shivakumar,
Proprietorship Concern,
Rep. by Power of Attorney Holder, M.Ramasamy.
All The petitioners are 395, Bazaar Street, Salem.

... Appellants/ Respondents/Complainants

/Vs/

1. A.Sirajudeen
2. K.M.Sowkath Ali
3. S.Nizarudeen
4. V.Mohammed Absar

...Respondents/Appellants/
Accused 1 to 4.

PRAYER: Criminal Appeal filed under section 378 of Code of Criminal Procedure, to set aside the judgement dated 16.05.2006 in C.A.No.137/2004 on the file of the Additional District Munsif/Fast Track Court No.1 Salem, setting aside the Judgement and sentence dated 27.09.2004 in C.C.No.714/2002 on the file of Judicial Magistrate No.1, Salem.

For Appellants : No Appearance

J U D G M E N T

This appeal has been filed against the judgement dated 16.05.2006 in C.A No. 137 of 2004 acquitting the accused by setting aside the order of conviction in C.C.No.714 of 2002 for offences under Section 138 of the Negotiable Instrument Act.

2. Originally, the trial court viz., the learned Judicial Magistrate No.1, Salem had convicted the respondents/accused for offence under Section 138 of Negotiable Instrument Act to undergo Rigorous imprisonment for one year and to pay Rs.1,44,000/- each to the complainant and Rs.36,000/- to the complainant as compensation under Section 138 of Negotiable Instrument Act. Against the order of conviction, the respondents/accused have filed an appeal in Crl.A.No.137 of 2004 before the Additional District Munsif Salem, (Fast Track court No.1, Salem) and the appellate court by an order dated 16.05.2006 acquitted the accused finding them not guilty and set aside the conviction. The amount of Rs.5,000/- collected from the appellant /accused as part of compensation was directed to be refunded to them after the order of acquittal made in the appeal filed by the appellant/complainant.

3. When the matter had earlier come up before this Court on 24.11.2015, the counsel for the appellant had submitted that the Appellant / Managing Partner of the complainant firm had expired and his son had taken back the case papers from him along with consent for change of Vakalat and thereby, this court had directed the counsel to file a memo to that effect. The earlier counsel who filed the appeal had filed a memo on 26.11.2015, in the memo filed by the counsel, it is stated that the son of the Managing Partner had taken the case papers and other bundles and also obtained change of vakalat. Thereafter, it is seen from the records that no steps have been taken by the legal heirs of the appellant or the Power of Attorney holder of the appellants to engage some other counsel or enter appearance. Having taken back the bundle and change of vakalath the legal heirs of the appellant should have made alternative arrangements for representing the appellant. This Court had by order dated 28.07.2018 directed the Registry to post the matter after printing the names of the appellants. Today the matter is posted in the list with printing the names of the parties. Today also there is no representation.

4. This Court is of the opinion that the legal heirs of the appellants are not interested in prosecuting the case any more. No useful purpose would be served by keeping the appeal pending. Hence, the appeal dismissed for non prosecution.

kv

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Munsif/Fast Track Court No.1 Salem.
2. The Judicial Magistrate No.1, Salem.

VSNII(CO)
sm:11.9.2018

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