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Crl.A.No.363 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.363 of 2020

and

Crl.M.P.No.17712 of 2022

M/s.Aaditya Energy,
represented by its Proprietor,
Ashwin Balasubramanian
No.94-A/115, First Floor,
Valluvar Street,
Sivananda Colony,
Coimbatore – 641 012.

... Appellant

Vs

T.Baladandayutham,
Proprietor of M/s.Mahasakthi & Co.,
2/68-33/1, Periyar Nagar,
First Street, Muthaiya Nagar,
Titicorin – 628 005.

... Respondent

Prayer: Criminal Appeal filed under Section 378(4) of Code of Criminal Procedure, to allow this Criminal Appeal by setting aside the Judgment dated 30.07.2020 passed in C.C.No.167 of 2016 on the file of the Judicial Magistrate, FTC-I and convict the respondent herein

For Appellant : Mr.C.Emalias
for Mr.M.Santhanaraman

For Respondent : Mr.B.Kumarasamy
for Mr.B.Vijayakumar



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JUDGMENT

This Criminal Appeal is directed as against the Judgment dated 30.07.2020 passed in C.C.No.167 of 2016 on the file of the Judicial Magistrate, FTC No. I, Coimbatore, thereby acquitted the respondent from the offence under Section 138 of Negotiable Instrument Act.

2. Heard, Mr.C.Emalias, learned counsel appearing for the appellant and Mr.B.Kumarasamy, learned counsel appearing for the respondent. The respondent has also filed an affidavit before this Court.

3. When the matter is posted today for questioning, both the counsels represented that both the parties have settled their issues amicably by way of compromise. Accordingly, the petitioner has agreed to receive Rs.25,00,000/- as full and final settlement. Today, the respondent paid a sum of Rs.5,00,000/- to the petitioner directly by cash. The remaining amount would be settled by the respondent as per the terms of the affidavit dated 02.12.2022.

4. The terms of affidavit dated 02.12.2022 filed by the respondent reads as follows :

“1. I am the Respondent herein in the above appeal as



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such I am well acquainted with the facts of the case.

2. *I submit that the Appellant filed the above Criminal Appeal in 363 of 2020 against acquittal vide Judgment passed in C.C.No.167 of 2016 on the file of the Judicial Magistrate, FTC No.I, Coimbatore, dated 30.07.2020 thereby acquitting me from the offences under Section 138 of Negotiable Instrument Act.*

3. *I submit that this Hon'ble Court by its order dated 16.11.2022 was pleased to allowed the appeal and convicted the respondent for the offence under Section 138 of NI Act. Today 02.12.2022 both the appellant and the respondent amicably settled the matter and the appellant is agreed to settle the issue by receiving a sum of Rs.25 lakhs for which the respondent is also agreed. Today the respondent paid a sum of Rs.5 lakhs by way of cash. And undertake to pay remaining Rs.20 lakhs in three equal installments.*

4. *I submit that the 1st installment would commence on 10.01.2023 for a sum of Rs.6,50,000/-, 2nd installment on 10.02.2023 for a sum of Rs.6,50,000/- and last and final installment on 03.03.2023 for a sum of Rs.7,00,000/-. The appellant is also agreed to withdraw the suit in O.S.No.64/2018 pending on the file of Principal District Judge, Coimbatore.”*

5. In view of the above, the conviction and sentence imposed in



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C.C.No.167 of 2016 by the Judicial Magistrate, FTC No.I, Coimbatore, dated 30.07.2020 is hereby set aside. If the respondent fails to comply with any one of the terms of affidavit, the respondent is sentenced to undergo one year simple imprisonment.

6. In the result, this Criminal Appeal stands allowed. Consequently, connected miscellaneous petition is closed.

02.12.2022

Index : Yes/No
Internet : Yes/No
Speaking/Non Speaking order
Lpp

To

The Judicial Magistrate,
FTC No.I, Coimbatore.

G.K.ILANTHIRAIYAN. J.



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