

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM:

THE HONOURABLE Mr.JUSTICE **V.SIVAGNANAM**

Criminal Appeal No.842 of 2022

M/s.Cheenv Enterprises,
A Partnership concern,
Rep.by its Power of Attorney
V.Chandrasekaran

.. Appellant

/versus/

1.M/s.Express E World,
A Partnership Firm
Rep.by its Partnership Mr.Saravanan.

2.Mr.Saravanan,
Partner,
M/s.Express E World

3.Manonmani
Partner,
M/s.Express E World

.. Respondents

Criminal Appeal has been filed under Section 378(4) of Criminal Procedure Code praying to set aside the order dated 15.06.2022 made in C.C.No.630 of 2016, on the file of the Judicial Magistrate No.VI, Coimbatore.

For Appellant : Mr.A.E.Ravichandran

For Respondents : No appearance

JUDGMENT

This Criminal Appeal is filed challenging the order of acquittal passed in C.C.No.630 of 2016 by the the Judicial Magistrate No.VI, Coimbatore.

2. The learned counsel for the petitioner submitted that the petitioner/complainant filed a private complaint against the respondents/accused for having committed an offence under Section 138 of Negotiable Instruments Act. After taking cognizance, the complainant and his Advocate have not appeared before the trial Court during COVID pandemic period. Hence, the learned Magistrate dismissed the complainant's complaint for the absence of the complainant and acquitted the accused. Due to unavoidable circumstances, the complainant as well as the Advocate did not appear before the Court and pursuant to the complaint, now he wants to proceed the case and sought to set aside the order passed by the trial Court and remand the matter for further proceedings.

3. Though notice has been sent to the respondents and their names have been printed in the cause list, there is no representation for the respondents.

4. Considering the submissions of the learned counsel for the petitioner and on a perusal of the record, it is seen that the petitioner filed a private complaint against the respondents for the offence under Section 138 of Negotiable Instruments Act, through his Power of Attorney. The case has been taken on file in C.C.No.630 of 2016. Due to COVID situations, the complainant, Power of Attorney as well as the Advocate were absent before the Court. In such circumstances, the learned Judicial Magistrate dismissed the case. Now they are ready to proceed the case if the case is remanded. It is submitted that only for non appearance of the parties, the complaint has been dismissed and the accused were acquitted. Now the complainant submitted that only due to COVID situations, complainant could not appear. Accepted the reasons stated by the learned

counsel for the petitioner, the impugned order is hereby set aside and the matter is remanded back to the learned Judicial Magistrate No.6, Coimbatore for a fresh trial.

5. In the result, this *Criminal Appeal is allowed* and the matter is remanded back for fresh trial. On receipt of this order, the learned Judicial Magistrate No.VI, Coimbatore is hereby directed to restore and dispose of the case in accordance with law.

14.12.2022

Index : yes/no

Internet:yes/no

Speaking order/ Non speaking order

rpl

To

The Judicial Magistrate No.VI, Coimbatore.

Crl.A.No.842 of 2022

V.SIVAGNANAM,J.

rpl

Crl.A.No.842 of 2022

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