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Crl.A.No.851 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.851 of 2022

K.Sekar

... Appellant

Vs.

C.Paul Doss

... Respondent

Prayer:

Appeal filed under Section 378 of Criminal Procedure Code seeking to set aside the order dated 07.12.2019 made in C.A.No.163 of 2019 on the file of learned Principal Sessions Judge, Salem, confirming the order dated 26.06.2018 made in S.T.C.No.265 of 2018 on the file of learned Special Judicial Magistrate (FAC), Special Court for Land Grabbing Cases, Salem, acquitting the respondent.

For Appellant : Mr.Raja
for M/s.N.Kolandaivelu
For Respondent : Mr.Charles Kamalesh M.Appaji

J U D G M E N T

The criminal appeal has been filed seeking to set aside the order dated 07.12.2019 made in C.A.No.163 of 2019 on the file of the learned Principal Sessions Judge, Salem, confirming the order dated



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26.06.2018 made in S.T.C.No.265 of 2018 on the file of learned Special Judicial Magistrate (FAC), Special Court for Land Grabbing Cases, Salem.

2.The learned counsel appearing for the appellant submitted that for non appearance of the appellant, the trial Court dismissed the complaint under Section 256 of Cr.P.C., which was filed by the appellant under Section 138 of the Negotiable Instruments Act and the same was confirmed by the lower Appellate Court. The learned counsel further submitted that originally complaint was filed by the complainant before the learned Judicial Magistrate No.III, Salem in S.T.C.No.26 of 2016. Thereafter the case was transferred to the file of the Special Court for Land Grabbing Cases, Salem and was re-numbered as S.T.C.No.265 of 2018 and the said fact was not intimated to the appellant. Thereby the appellant was not able to appear before the trial Court and the trial Court without providing any opportunity to the appellant dismissed the complaint.

3.The learned counsel appearing for the appellant further submitted that, this Court may, without going into the merits of the case, set aside the impugned orders and issue direction to the trial



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Court to restore S.T.C.No.265 of 2018 on its file and to dispose of the same after providing opportunity to the appellant as well as the respondent.

4.The learned counsel appearing for the respondent submitted that in the event of this Court issuing direction to the trial Court to restore S.T.C.No.265 of 2018 on its file, the appearance of the respondent before the Trial Court may be dispensed with.

5.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent.

6.Considering the submission made by the learned counsel appearing for the appellant, this Court without going into the merits of the case, set aside the order dated 07.12.2019 made in C.A.No.163 of 2019 by the learned Principal Sessions Judge, Salem and the order dated 26.06.2018 made in S.T.C.No.265 of 2018 by the learned Special Judicial Magistrate (FAC), Special Court for Land Grabbing Cases, Salem.

7.For the inconvenience caused to the respondent, this Court



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directs the appellant to pay a sum of Rs.5,000/- (Rupees Five Thousand Only) as costs to the respondent, within a period of two weeks from the date of receipt of a copy of this order and produce proof/ receipt of such payment before the trial Court. Upon production of such proof/ receipt by the appellant, the learned Special Judicial Magistrate (FAC), Special Court for Land Grabbing Cases, Salem, shall restore S.T.C.No.265 of 2018 on its file and after providing opportunity to the appellant as well as the respondent, shall dispose of the same as expeditiously as possible.

8.The appearance of the respondent before the Trial Court is dispensed with except on three occasions, i.e., the respondent shall be present before the trial Court for receiving copies under Section 207 of Cr.P.C., at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement. However, if for any particular reason, the presence of the respondent is necessary, the trial Court, at its wisdom, shall direct his appearance on those days.

9.The criminal appeal is allowed on the above terms.

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Index: Yes/ No Speaking Order: Yes/ No NCC: Yes/ No

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To

- 1.The Principal Sessions Judge,
Salem.
- 2.The Special Judicial Magistrate (FAC),
Special Court for Land Grabbing Cases,
Salem.



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M.DHANDAPANI,J.
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