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Crl.A.No.90 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.90 of 2022

and

Crl.M.P.No.1354 of 2024

M.Kannan

... Appellant/Complainant

Vs.

1.M/s.Seventh Sense Movie Makers,
represented by its Proprietor S.Sakthivel,
1/155. A.S.Kulam Village and Post,
via Valampalayam,
Coimbatore – 641 110.

2.S.Sakthivel

... Respondent/Accused

PRAYER: Criminal Appeal has been filed under Sections 378 of Cr.P.C, praying to call for the records and set aside the acquittal order passed by the learned III Additional District and Sessions Judge, Tiruvallur at Poonamallee in Crl.A.No.187 of 2018 dated 21.01.2020 and convict the respondents/accused herein and award maximum sentence by allowing this criminal appeal.

For Appellant	: Mr.S.N.Thangaraj for Mr.R.Sreerangan
For Respondents	: Mr.K.Sivaprakash



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J U D G M E N T

This appeal has been filed seeking to set aside the acquittal order passed by the learned III Additional District and Sessions Judge, Tiruvallur at Poonamallee in Crl.A.No.187 of 2018 dated 21.01.2020 and convict the respondents/accused herein and award maximum sentence by allowing this criminal appeal.

2.The appellant as complainant had filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in S.T.C.No.365 of 2016. The Trial Court, by judgment dated 07.09.2018, acquitted the respondent/accused. Aggrieved against the same, the appellant filed an appeal before the learned III Additional District and Sessions Judge, Tiruvallur at Poonamallee in C.A.No.187 of 2018. The Sessions Judge by judgment dated 21.01.2020 dismissed the appeal confirming the judgment of acquittal passed by the trial Court, against which, the present appeal has been filed.



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3.Today, the appellant as well as the second respondent and their respective counsel are present. The identity of the appellant and second respondent is not disputed. Both parties confirmed that the issue had been settled between them.

4.The appellant has filed a compounding petition along with Joint Memo of Compromise, Deed of Compromise and the affidavit of both appellant and second respondent before this Court in Crl.M.P.No.1354 of 2024 in Crl.A.No.90 of 2022 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.

5.It is seen that the appellant and the second respondent have entered into a settlement agreement and filed the Joint Memorandum of Compromise dated 19.12.2023. The appellant and the respondent have signed in the Joint Memorandum of Compromise and counter-signed by their respective counsels.



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follows:

“1. The petitioner submits that he filed a case against the respondents herein for the offence punishable under section 138 of the Negotiable Instruments Act before the Learned Judicial Magistrate, Fast Track Court (Magisterial Level – II) Poonamallee in S.T.C.No.365 of 2016 and the same was ended in acquittal on 07.09.2018. The petitioner further submits that against the said acquittal order he preferred a criminal appeal before the Learned III Additional District and Session Judge, Tiruvallur at Poonthamalle in Crl.A. No. 187 of 2018. The petitioner further submits that the Learned III Additional District and Session Judge, Tiruvallur at Poonthamalle was pleased to dismiss the above said Crl.A.No. 187 of 2018 and conformed the trial court judgement of acquittal order by its order dated 21.01.2020.

2. The petitioner submits that he filed a criminal appeal before this Hon'ble Court, against the order passed by the Learned III Additional District and Session Judge, Tiruvallur at Poonthamalle in Crl.A.No. 187 of 2018 dated 21.01.2020. The petitioner submits that the said appeal was numbered as Crl.A.No.90 of 2022 and still pending on this Hon'ble Court's file.



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3. *The petitioner submits that during the pendency of the above said Crl.A.No.90 of 2022 the 2nd respondent/accused herein came with a settlement proposal and the same was agreed by him; hence there was a Deed of Compromise dated 13.10.2023 was entered between them. The petitioner further submits that as per the Deed of Compromise dated 13.10.2023, the respondent/2nd accused already paid Rs.3,00,000/- (Rupees Three lakhs only) by way of D.D.No.093538 dated 07.10.2023, drawn in State bank of India, Poonamallee branch in favour of the petitioner and the respondent/2nd accused agreed to pay the balance of total settlement amount Rs.3,00,000/- (Rupees Three lakhs only).*

4. *The petitioner submits that as agreed by the respondent/2nd accused paid Rs.1,50,000/- (Rupees One lakh fifty thousand only) by way of D.D.No.093713 dated 29.11.2023, drawn in State Bank of India, Poonamallee branch in favour of the petitioner and the respondent/2nd accused agreed to hand over the D.D.No.532683 dated 12.12.2023, drawn in Canara Bank Sarkarasammakulam branch towards the agreed balance settlement amount Rs.1,50,000/- (Rupees One lakh fifty thousand only) to the petitioner herein before this Hon'ble Court on the date of this compounding petition is listed before this Hon'ble Court.*



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Therefore it is prayed that this Hon'ble Court may be accept this Joint Memo of Compromise and pleased to permit the petitioner/complainant to compound the offence punishable under section 138 of the Negotiable Instruments Act, along with the respondents/accused herein in Crl.A.No.90 of 2022 and confirm the acquittal order passed by the Learned Judicial Magistrate, Fast Track Court (Magisterial Level- II) Poonamallee in S.T.C.No.365 of 2016 dated 07.09.2018 and the same was confirmed by the Learned III Additional District and Session Judge, Tiruvallur at Poonthamalle in Crl.A.No.187 of 2018 dated 21.01.2020 on the basis of Joint Memo of Compromise in the interest of justice and thus render justice."

7.In view of the above compromise arrived at between the parties, the Criminal Appeal is disposed of. The above said terms of compromise are recorded. The Joint Memorandum of Compromise shall form part and parcel of the order.

05.02.2024

Index : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

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To
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- 1.The Judicial Magistrate,
Fast Track Court (Magisterial Level – II),
Poonamallee, Thiruvallur District.
- 2.The III Additional District and Sessions Judge,
Tiruvallur at Poonamallee.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

rsi

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