



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.715 of 2024

M/s.Sree Gokulam Chit and Finance Company (P) Limited,
Rep.by its Managing Director,
G.Baiju ... Appellant

-Vs-

S.Ethiraj ... Respondent

PRAYER: Criminal Appeal is filed under Section 378(3) Cr.P.C, to set aside the order of acquittal passed in C.C.No.2791 of 2013 dated 27.04.2023 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.

For Appellant : Mr.I.Rajasekar

For Respondent : Mr.S.Chandra Baskaran



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J U D G M E N T

The Criminal Appeal has been filed against the judgment dated 27.04.2023 passed in C.C.No.2791 of 2013 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.

2. The learned counsel appearing for the appellant submits that the appellant, namely, M/s.Sree Gokulam Chit and Finance Company (P) Limited, filed a complaint against the respondent/accused under Section 200 Cr.P.C for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, as amended by (Amendment) Act, 2002. Since the person, who represented on behalf of the appellant Finance Company before the trial Court, resigned from the Company, a plea was taken by the counsel for the appellant that they need one month time for recruiting another person and filing substitution petition, however, the trial Court has mechanically dismissed the complaint for non-appearance of the appellant, acquitting the accused. Challenging the same, the present appeal has been filed.



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3. The learned counsel appearing for the respondent submits that when a similar issue came up for consideration before this Court in Crl.A.Nos.473 of 2024 etc., this Court, vide judgment dated 03.06.2024, dismissed the appeals preferred by the appellant. Hence, he prays for dismissal of this appeal.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

5. Considering the facts and circumstances of the case and the fact that the complaint preferred by the appellant was dismissed on 27.04.2023 due to non-appearance of the appellant, in order to give one opportunity to the appellant, this Court is inclined to set aside the impugned order dated 27.04.2023 passed in C.C.No.2791 of 2013 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, and accordingly, it is set aside. The matter is remanded back to the trial Court for fresh consideration. The learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, is directed to restore C.C.No.2791 of 2013 on file and decide the matter on merits and



in accordance with law, after providing sufficient opportunity to the appellant and the respondent and dispose of the case within a period of three months from the date of receipt of a copy of this judgment. If the appellant is not ready to adduce any evidence and fails to appear before the trial Court, the trial Court may pass appropriate orders by invoking the power available under Section 256 Cr.P.C.

6. Accordingly, this Criminal Appeal is allowed.

02.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb



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M.DHANDAPANI., J.

ssb

To

The learned Metropolitan Magistrate,
Fast Track Court No.III, Saidapet, Chennai.

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