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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.A.Nos.761 and 762 of 2024

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

-Vs-

P.Kalyani ... Respondent in Crl.A.No.761 of 2024
S.Padmanabhan ... Respondent in Crl.A.No.762 of
2024

PRAYER in Crl.A.No.761 of 2024: Criminal Appeal is filed under Section 378 Cr.P.C, to set aside the order of acquittal passed in C.C.No.4726 of 2011 dated 27.04.2023 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.

PRAYER in Crl.A.No.762 of 2024: Criminal Appeal is filed under Section 378 Cr.P.C, to set aside the order of acquittal passed in C.C.No.112 of 2012 dated 27.04.2023 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.



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In both appeals

For Appellant : Mr.I.Rajasekar

For Respondent : Mr.S.Chandra Baskaran

COMMON JUDGMENT

The Criminal Appeals have been filed against the orders dated 27.04.2023 passed in C.C.Nos.4726 of 2011 and 112 of 2012 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 complaints against the respondents 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 Financial Company before the trial Court, resigned from the Company, a plea was taken by the appellant that they need one month time for recruiting another person, however, the trial Court has mechanically dismissed the complaint for non-appearance of the appellant, acquitting



the accused. Challenging the same, the present appeals have been filed.

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3. The learned counsel appearing for the respondents 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 complaints preferred by the appellant were 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 orders dated 27.04.2023 passed in C.C.Nos.4726 of 2011 and 112 of 2012 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, and accordingly, the same are set aside. The matters are 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.Nos.4726 of 2011 and 112 of 2012 on



file and decide the matters on merits and in accordance with law, after providing sufficient opportunity to the appellant and the respondents and dispose of the cases 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, the Criminal Appeals are allowed.

02.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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M.DHANDAPANI., J.

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To

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

Crl.A.Nos.761 and 762 of 2024

02.07.2024