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Cr1.A.No. 1291 OF 1998

ITEM No.29

Court No.11

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No. 1291/1998

THANUNATHA BABU

Appellant (s)

VERSUS

M SEVVILAM PARITHI & ORS

Respondent (s)

(With Office Report)

Date : 30/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)

Mr. Subramonium Prasad.,Adv.

For Respondent (s)

Mr. R. Nedumaran,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

(Sheetal Dhingra) (Kanwal Singh)
Court Master Court Master
(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1291 OF 1998

THANUNATHA BABU

Appellant (s)

VERSUS

M SEVVILAM PARITHI & ORS

Respondent (s)

O R D E R

Heard the parties.

This appeal by special leave has been filed against judgment rendered by Madras High Court whereby prosecution of the two persons and the firm under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act') has been quashed on the sole ground that notice under Section 138 of the Act was not issued to the firm but issued to the managing partner and General Manager of the firm who have been also made accused in the case. Learned counsel submitted that the point raised is no longer res integra as the same is concluded by a decision of this Court in the case of Rajneesh Aggarwal Vs. Amit J. Bhalla [2001 (1) SCC 631], wherein notice was not issued to the firm but only to the Director under Section 138 of the Act and this Court laid down that the prosecution of the Director on this ground cannot be said to be unwarranted. In our view, this appeal is squarely covered by the aforesaid decision of this Court, as such the impugned order cannot be maintained.

The appeal is accordingly allowed and the impugned order is set aside. As the complaint was filed in the year 1994, we hope and trust that the trial court shall conclude the trial without any delay.

.....J.
(B.N. AGRAWAL)

.....J.
(Dr. AR. LAKSHMANAN)
New Delhi
April 30, 2004.