IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NOS.1081-1083 OF 2008** (Arising out of S.L.P. (Crl.) Nos.3865-3867 of 2007)

M/s. S & S Industries and Enterprises Ltd. and Ors.

...Appellant(s)

Versus

M/s. Fortress Financial Services Ltd.

...Respondent(s)

ORDER

Heard learned counsel for the parties.

Leave granted.

It appears that three complaints filed under Section 138 of the Negotiable Instruments Act by the respondent were dismissed for non-prosecution. Against the said order, when the matter was taken to the High Court, by the impugned order, it set aside the order of dismissal of complaint and remanded the matter to the Trial Court for disposing of the complaints on merits. Against this order, present appeals by special leave have been filed.

In the present case, notice was issued to the complainant upon appellants' depositing a sum of Rupees ten lakhs, which order has been already complied with, and the aforesaid sum has been kept in fixed deposit. Learned counsel appearing on behalf of the appellants stated that his clients are ready to pay further sum of Rupees three lakhs by way of demand draft which he is having with him; as such, impugned order be set aside and further proceeding in the complaint

....2/-

cases may be dropped. Learned counsel appearing on behalf of the respondentcomplainant submitted that even if the statement made in the Memorandum of Understanding is accepted to be true, his client had accepted to receive a sum of Rupees thirteen lakhs in full and final settlement of the entire claim which was in the month of July, 2007 and thereafter one more year has passed, but no payment has been made; as such, he is entitled to be compensated by payment of interest upon the aforesaid amount of Rupees thirteen lakhs for a period of one year. In the facts and circumstances of the case, we are of the view that complainant should be paid further sum of Rupees one lakh, i.e., in all Rupees fourteen lakhs. Out of the aforesaid, a sum of Rupees ten lakhs has been already deposited in this Court, which has been kept in fixed deposit. The respondent shall be permitted to withdraw the same along with interest accrued thereon from this Court without any delay. Learned counsel appearing on behalf of the appellant stated that he may be permitted to deposit demand draft for Rupees three lakhs in the Registry of this Court by tomorrow, i.e., 15th July, 2008. Let it be so done. In that event, the respondent shall be entitled to withdraw this sum of Rupees three lakhs as well. Learned counsel stated that his clients undertake to pay balance sum of Rupees one lakh to the complainant by demand draft drawn in its favour upon a local bank within one month from today. The offence under Section 138 of the Negotiable Instruments Act is compoundable. In view of the facts stated above, in our view, it would be just and expedient to permit the parties to compound the offence.

Accordingly, the appeals are allowed, impugned order passed by the High

Court is set aside and prosecution	of the appellants is dropped.	
	[B.N. AGRAWAL]	J
New Delhi,	[G.S. SINGHVI]	J

New Delhi, July 14, 2008.