



Crl. A. No. 11 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2026

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A. No. 11 of 2026

S. Palanisamy

... Appellant

Vs.

P.M. Swaminathan

... Respondent

Criminal Appeal is filed under Section 372 of Cr.P.C., to set aside the order passed in C.C.No.913/2017 in a complaint filed under Section 138 of NI Act, dated 08.05.2019 by the learned Judicial Magistrate Fast Track No.2 @ ML. Coimbatore.

For Appellant : Ms. Elizabeth Ravi

J U D G M E N T

This Criminal Appeal has been filed seeking to set aside the order dated 08.05.2019 passed by the learned Judicial Magistrate Fast Track No.2 @ ML. Coimbatore in C.C.No.913 of 2017, dismissing the complaint filed under Section 138 of the NI Act, for non-prosecution.



2. The appellant, as the complainant, filed a complaint under Section 138 of the NI Act against the respondent in C.C.No.913 of 2017. The trial Court, by order dated 08.05.2019, dismissed the complaint for non-prosecution, aggrieved by which the present appeal has been filed.

3. The learned counsel for the appellant submitted that the appellant has filed a complaint under Section 138 of the NI Act against the respondent. The respondent was carrying on a chit fund business in the name and style of M/s.Pranu Chits and Finance and Bannari Amman Traders and used to borrow money from the appellant / complainant. From the year 2015, the respondent had received a sum of Rs.72,00,000/- from the appellant and agreed to pay interest at the rate of 24% per annum. Subsequently, as the respondent failed to repay the amount, he issued three cheques for Rs.22,00,000/-, Rs.20,00,000/- and Rs.30,00,000/-. The said cheques were presented for collection, but were dishonoured. Thereafter, following the statutory provision, the complaint was filed.

3.1. The learned counsel further submitted that the appellant was unwell and therefore, was unable to inform his counsel of his inability to appear before the trial Court. Consequently, a petition seeking condonation



of his absence could not be filed. When the case was taken up on 08.05.2019, the trial Court dismissed the complaint for non-prosecution. It was submitted that the dismissal was only on account of a technical default and that the complaint may be restored and the appellant's case can be decided on merits.

4. Heard the learned counsel for the appellant and also perused the materials available on record.

5. Considering the above submissions made by the learned counsel for the appellant and upon perusal of the materials available on record, it is seen that the complaint was dismissed for non-prosecution on technical grounds and not on merits. In view of the same, this Court dispenses notice to the respondent. Substantial justice can be rendered only after hearing the parties through a full-fledged trial, admittedly came dismissed on technicality not on merits. In view of the same, this Court is inclined to set aside the order passed by the trial Court.



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6. In view of the above, this Court dispenses with notice to the respondent and is inclined to set aside the order of dismissal. The complaint in C.C.No.913 of 2017 is hereby restored to the file of the learned Judicial Magistrate Fast Track No.2 @ ML.No.II, Coimbatore. The learned Judicial Magistrate, Coimbatore, is directed to take up the case in C.C.No.913 of 2017 to its file, and compete the trial, within a period of six (6) months from the date of receipt of a copy of this order, considering that the case was originally instituted in the year 2017.

7. In the result, this Criminal Appeal is allowed.

13.08.2026

Neutral Citation: Yes/No
AT

To
The Judicial Magistrate Fast Track No.2 @ ML. Coimbatore.



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M.NIRMAL KUMAR, J.

AT

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