

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.566 of 2015

IDBI Bank Ltd.,
Retail Asste Centre
Rep.by its Power of Attorney Mr.Arvind
Having Office at
Murugesu Naicker Complex (3rd floor)
No.68, Greaves Road, Chennai 6 ... Appellant/Complainant

vs.
Akshay Gopal Srinivasan ... Respondent /Accused

Criminal Appeal filed under Section 378 of Cr.P.C., against the order dated 28.5.2015 passed in C.C.No.328 of 2013 by the Fast Track Court at Magistrate Level-2 at Egmore, Chennai.

For appellant : Mr.R.Venkatavarathan

For Respondent : Mr.J.J.R.Edwin

JUDGMENT

This Criminal Revision Case has been directed against the dismissal order dated 28th day of May 2015 passed in Calendar Case No.328 of 2013.

2. The appellant herein, as complainant, has filed the complaint in question under section 138 of Negotiable Instruments Act, 1881 on the file of the court below and the same has been taken on file in Calendar Case No.328 of 2013, wherein, the present respondent has been shown as sole accused.

3. Since the complainant has failed to make its appearance, on 28.5.2015, the complaint has been dismissed under section 256 (1) of Code of Criminal Procedure, 1973. Against the dismissal order, present Criminal Appeal has been preferred at the instance of the complainant as appellant.

4. It is seen from the records that the complaint filed by the appellant has been taken on file in C.C.No.328 of 2013 and C.C.No.328 of 2013 has been dismissed for default.

5. Considering the fact that C.C.No.328 of 2013 has been dismissed only due to absence of the complainant, this Court is of the view that sufficient opportunity must be given to the complainant and therefore, dismissal order dated 28.5.2015 is liable to be set aside.

In fine, this Criminal Appeal is allowed. The dismissal order dated 28.5.2015 passed in Calendar Case No.328 of 2013 by the Court below is set aside and C.C.No.328 of 2013 is ordered to be restored to file. The court below is directed to dispose of Calendar Case No.328 of 2013 before the end of February, 2016 and report the same to the Registry without fail.

Sd/-
Assistant Registrar(CS-VII)

True Copy

Sub Assistant Registrar

To :

1. Fast Track Court at Magistrate Level-2,
Egmore,
Chennai

2.The Public Prosecutor,
High Court,
Chennai

3.The Section Officer,
Criminal Section High Court,
Madras.

+1cc to Mrs.C.Uma, Advocate sr.61325

Crl.A.No.566 of 2015

vgi[col]
srg 23/11/2015