

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.570 of 2015

D.Vidhya

... Appellant/Complainant

Vs.

1. R.Saravana Kumar

2. A.Rajasekaran

3. R.Shenbagavalli @ Valliammai

... Respondents/Accused

Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the judgment dated 27.3.2014 made in M.C.No.15 of 2012 on the file of the Judicial Magistrate Court, Harur, Dharmapuri and allow the above Criminal Appeal by granting leave to sue against the accused persons.

For appellant : Mr.N.Vijaya Basker

For Respondents : Mr.R.Jayaprakash

JUDGMENT

This Criminal Appeal has been directed against the dismissal order dated 27.3.2014 passed in M.C.No.15 of 2012 by the Judicial Magistrate Court, Harur.

2. The learned counsel appearing for the appellant has contended that the appellant, as complainant, has filed M.C.No.15 of 2012 on the file of Judicial Magistrate Court, Harur, wherein the present respondents have been shown as respondents and since the complainant has failed to make appearance on 27.3.2014, M.C.No.15 of 2012 has been dismissed. Under the said circumstances, present Criminal Appeal has been filed.

3. The learned counsel appearing for the respondents has contended that in CrI.O.P.No.10866 of 2013, an interim stay has been granted on 25.4.2013 till mediation proceedings are completed, but the court below has dismissed M.C.No.15 of 2012 on 27.3.2014.

4. It is seen from the records that in Criminal Original Petition No.10866 of 2013, an interim stay has been granted till the mediation proceedings are completed and during pendency of the said case, on 27.3.2014, the dismissal order in question has been passed by the court below. However, on 27.3.2014, the appellant has failed to make her appearance.

5. Considering the fact that the appellant has failed to make her appearance on 27.3.2014 and for the first time, M.C.No.15 of 2012 has been dismissed for default, this Court is of the view to set aside the dismissal order passed in M.C.No.15 of 2012.

In fine, this Criminal Appeal is allowed. The dismissal order dated 27.3.2014 passed in M.C.No.15 of 2012 by the Judicial Magistrate, Harur is set aside. M.C.No.15 of 2012 is ordered to be restored to file.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To :

1. Judicial Magistrate Court, Harur

2.-do-Thro The chief Judicial Magistrate
Dharmapuri District

3.The Public Prosecutor, High Court, Chennai

+1 cc to M/S.Law Vision Advocate sr.5489

+1 cc to M/S.R.Jayaprakash Advocate sr.55250

WEB COPY

Cr1.A.No.570 of 2015

aa12/10/2015