

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16-10-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Appeal No.604 of 2015

V.Manikkam (aged 73 years)

..Appellant/Complainant

Vs.

K.Natarajan

...Respondent/Accused

Criminal appeal under Section 378(2)(b), Cr.P.C., against the order dated 15-05-2015 in S.T.C.No.457/2013 on the file of the Judicial Magistrate, Sirkali and pray to set aside the order of acquittal.

For appellant : Mr. A. Muthukumar

For respondent : No appearance

JUDGMENT

This criminal appeal has been directed against the dismissal order dated 15-05-2015 passed in S.T.C.No.457 of 2013 by the Judicial Magistrate, Sirkali. The appellant herein as complainant has filed the complaint in question under Section 138 of the Negotiable Instruments Act wherein the present respondent has been shown as sole accused. On 15-05-2015, both the complainant and the accused are not present. Under the said circumstances, the Court-below has dismissed the complaint under Section 256, Cr.P.C. Against the order of dismissal, the present criminal appeal has been filed.

2. The learned counsel appearing for the respondent has not made his appearance. Under the said circumstances, the present criminal appeal is disposed of on the basis of the contentions put forth on the side of the appellant.

3. The learned counsel appearing for the appellant has contended that only on 15-05-2015 both the complainant and the accused are absent and the Court-below without giving sufficient opportunity to the complainant has erroneously dismissed, S.T.C.No.457 of 2015 and therefore, the dismissal order passed by the Court-below is liable to be set aside.

4. It is seen from the records that on 15-05-2015, both the complainant and accused are absent in S.T.C.No.457 of 2013

and by way of invoking powers conferred under Section 256, Cr.P.C., the Court-below has dismissed the complaint.

5. Considering the fact that sufficient opportunity must be given to the complainant, this Court is of the view to set aside the dismissal order dated 15-05-2015 passed in S.T.C.No.457 of 2013.

In fine, this criminal appeal is allowed. The dismissal order dated 15-05-2015 passed in S.T.C.No.457 of 2013 by the Judicial Magistrate, Sirkali is set aside and S.T.C.No.457 of 2013 is ordered to be restored to file.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate, Sirkali.

2. The Judicial Magistrate, Sirkali

+1 cc Mr.A.Muthukumar, Advocate (sr.57371)

Criminal Appeal No.604 of 2015

GK(co)
cp 28/10/2015

सत्यमेव जयते

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