

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.690 of 2015

Arjunan

... Appellant/Complainant

vs.

Kanyakumari

... Respondent/Accused

Criminal Appeal filed under Section 378(4) of Cr.P.C., against the order passed in STC No.328 of 2014 dt. 28.09.2015 by the Judicial Magistrate No.II, Chidambaram.

For appellant : Mr.T.Saravanan

JUDGMENT

This Criminal Appeal has been directed against the dismissal order dated 28.9.2015 passed in STC No.328 of 2014 by the Judicial Magistrate No.2, Chidambaram.

2. The appellant herein, as complainant, has filed a complaint under section 138 of Negotiable Instruments Act, 1881 on the file of the Court below and the same has been taken on file in S.T.C.No.328 of 2014, wherein the present respondent has been shown as sole accused. The court below has dismissed the complaint due to non-appearance of both parties and thereby acquitted the accused. Against the order of acquittal, present Criminal Appeal has been filed at the instance of the complainant as appellant.

3. Considering the stage of S.T.C No.328 of 2014 as well as the nature of order passed by the court below, notice need not be sent to the respondent.

4. Learned counsel appearing for the appellant has contended that in S.T.C No.328 of 2014, on the side of the complainant, necessary evidence have been let in and argument has also been advanced and the matter stands posted for hearing arguments on the side of the respondent. Under such circumstances, court below has dismissed S.T.C No.328 of 2014 and therefore, the dismissal order passed by the court below is liable to be set aside.

5. It is seen from the appeal grounds that on the side of the complainant, necessary both oral and documentary evidence have been adduced and on the side of the complainant, argument has also been advanced.

6. Considering the stage of STC No.328 of 2014 and also considering the fact that the same has been dismissed due to non-appearance of both parties, the dismissal order passed by the Court below is liable to be set aside.

In fine, this Criminal Appeal is allowed at the stage of admission. The dismissal order dated 28.9.2015 passed in S.T.C No.328 of 2014 by the court below is set aside and S.T.C No.328 of 2014 is ordered to be restored to file. The Court below is directed to hear arguments of the respondent and pass orders on merits.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ajr

To :

- 1.The Judicial Magistrate No.II, Chidambaram.
- 2.The Chief Judicial Magistrate, Cuddalore.
- 3.The Public Prosecutor, High Court, Chennai.

+ 1 cc to Mr.T. Saravanan, Advocate SR.63095

Cr1.A.No.690 of 2015

RV(CO)
Eu 25.11.15

सत्यमेव जयते

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