

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.11.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1051 of 2015

R.Arivazhakan

... Petitioner

vs.

P.Kandasamy

... Respondent

Criminal Revision filed u/s.397 & 401 Cr.P.C. against the order made in C.M.P.No.3158 of 2015 in C.M.P.Nos.2823 and 2824 of 2015 in S.T.C.No.261 of 2013 on the file of the Judicial Magistrate (Fast Track Court), Tiruchengode dated 08.09.2015.

For Petitioners: Mr.V.Balamurugane

O R D E R

This revision has been filed against the order of learned Judicial Magistrate (Fast Track Court), Tiruchengode dated 08.09.2015 passed in C.M.P.No.3158 of 2015 in C.M.P.Nos.2823 and 2824 of 2015.

2. Heard learned counsel for petitioner and perused the records.

3. Learned counsel for respondent at the Court below has been served, but, however, there is no appearance for the respondent. Mere service of notice on the counsel for the respondent by itself would not be a sufficient service. An order for doing so was made only towards enabling the respondent to engage a counsel for appearance upon service being effected. In the present case, the issue is limited to this petitioner having been directed to pay costs in a sum of Rs.400/- on or before 07.09.2015 towards recall of a defence witness in a case for offence under Section 138 of the Negotiable Instruments Act, 1881. Upon his failure to do, the petitioner has sought extension of time and the petition therefor has been dismissed giving rise to this revision.

4. Towards avoiding protraction of the proceedings, which would only be to the detriment of the complainant, this Court considers it appropriate to allow this revision, even though

service has not been completed upon the respondent, subject to this petitioner paying costs in a sum of Rs.2000/- to the second respondent/complainant.

Accordingly, this Criminal Revision is allowed and the order of the learned Judicial Magistrate, ***(Fast Track Court) Tiruchengode dated 08/09/2015 passed in CMP No.3158/2015 in CMP Nos.2823 and 2824 of 2015 in STC No.261 of 2013 is setaside"** This petitioner shall be permitted to recall the defence witness for the purpose of re-examination, subject to his paying a sum of Rs.2,000/- to the respondent on or before ***22.12.2015**. The trial Court is directed to expeditiously dispose of the case pending in S.T.C.No.261 of 2013.

Sd/-
Assistant Registrar(CS IV)
Dated:25/11/2015

*Corrected as per
Order dated 16/12/2015

Sd/-
Assistant Registrar
Dated:17/12/2015

//True Copy//

Sub Assistant Registrar

gpa

To

To be Substituted for the
Orders already despatched
on 26/11/2015

The Judicial Magistrate
(Fast Track Court)
Tiruchengode

सत्यमेव जयते

+ 1 cc to Mr.V. Balamurugan, Advocate Sr.67662

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Cr1.R.C.No.1051 of 2015

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EU 25.11.15
srg 17/12/2015