

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM:

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

Crl.R.C.No.1208 of 2015

and

M.P.Nos.1 to 3 of 2015

Muthiyalu ..Petitioner/Accused

Vs.

1.The State,
Rep. By the Public Prosecutor,
Coimbatore.

2.Narayana Asari ..Respondents/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment of learned V Additional District and Sessions Judge, Coimbatore passed in C.A.No.48 of 2014, dated 10.02.2015, confirming the judgment of learned Judicial Magistrate, (Fast Track Court II), Coimbatore, passed in C.C.No.96 of 2013 dated 19.03.2014.

For Petitioner: Mr.J.Kingsly Solomon

For Respondents : Mr.C.Iyyapparaj,
Govt. Advocate (Crl. Side) for R1
Mr.C.Deivasigamani for R2

सत्यमेव जयते

O R D E R

This revision challenges the judgment of learned V Additional District and Sessions Judge, Coimbatore, passed in C.A.No.48 of 2014, dated 10.02.2015, confirming the judgment of learned Judicial Magistrate, (Fast Track Court II), Coimbatore, passed in C.C.No.96 of 2013 dated 19.03.2014.

2. The revision petitioner faced trial for offence under Section 138 of Negotiable Instruments Act in C.C.No.96 of 2013 on the file of learned Judicial Magistrate, (Fast Track Court II), Coimbatore. He was convicted and sentenced to undergo 1 year S.I and fine of Rs.2,000/- i/d 3 months S.I. Against his

conviction, the petitioner moved C.A.No.48 of 2014 on the file of V Additional District and Sessions Judge, Coimbatore, which has been dismissed for default. There against, the petitioner has moved the present revision.

3. Heard learned counsel for petitioner, learned Government Advocate (Crl. Side) for first respondent and learned counsel for second respondent.

4. This revision is to be allowed for the reason that criminal appeal cannot be dismissed for default as informed in the decision of Apex Court in Bani Singh v. State of Uttar Pradesh [1996 (4) SCC 720]. Guidelines are to be found in such decision on the course to be adopted by Court dealing with a criminal appeal, in the event of non-prosecution thereof.

5. Accordingly, this revision is allowed and the judgment passed by learned V Additional District and Sessions Judge, Coimbatore, passed in C.A.No.48 of 2014 on 10.02.2015, confirming the judgment of learned Judicial Magistrate, (Fast Track Court II), Coimbatore, passed in C.C.No.96 of 2013 on 19.03.2014 shall stand set aside. C.A.No.48 of 2014 shall stand restored to the file of learned V Additional District and Sessions Judge, Coimbatore. The Court below shall dispose of C.A.No.48 of 2014 within a period of two months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

vsm

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The V Additional District and Sessions Judge, Coimbatore.

2. The Principal District and Sessions Judge, Coimbatore.

3.The Judicial Magistrate, (Fast Track Court II), Coimbatore.

4.The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.C.Deivasigamani, Advocate Sr 64160.

+ 1 cc to M/s.Corner Stone Associates Advocate Sr 63854.

SAI/CO

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