

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.08.2015

Coram

The Honourable Mr. Justice B.RAJENDRAN

Crl. R.C.Nos.535 & 536 of 2009

M/s. Calada Finance Ltd.,
No.11, Peria Naicken Street,
Sowcarpet, Chennai -79.
rep. by its Authorised Signatory Mr.Ravi

... Petitioner in both the Crl.Rcs.

vs.

T.Ambane Dilip Vithal

... Respondent in Crl.R.C.No.535/09

Mr.Kundelkar Anil Sankar

... Respondent in Crl.R.C.No.536/09

Crl.R.C.Nos.535 & 536 of 2009 : These Criminal Revision petitions have been filed under Sections 397 and 401 of Criminal Procedure Code to call for the records in C.C.Nos.6761 & 6763 of 2003, dated 05.05.2009 on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai.

For Petitioner
in both the Crl.Rcs. : M/s. Om Sai Ram

For respondent in
both the Crl.Rcs. : No Appearance

COMMON ORDER

As against the order passed by the Court below dated 05.05.2009, the petitioner has come up with the present petition. Since both the petitions are filed by the very same complainant, these two revisions are taken up together for final disposal.

2. The only point which has been raised by the revision petitioner is that without issuing notice, the complaint filed by the petitioner had been dismissed. It is also contended that on receipt of notice dated 09.03.2009, the petitioner had appeared before the learned

Magistrate on 21.04.2009 and since the Magistrate was on other duty, no court proceedings have been attended and the petitioner was orally informed that the case is posted on 11.05.2009. However, when it was verified, it is seen that the complaint filed by the petitioner itself was dismissed on 05.05.2009. Hence, the order passed by the court below is erroneous and legally sustainable.

3. On a careful perusal of the entire orders one thing is clear that the lower court has given a lenient view to this petition. It is seen that both the cases were filed in the year 2003 and the above orders have been passed in the year 2009. The petitioner without taking any steps to serve the notice, simply dragged on the proceedings for nearly about six years. On receipt of the notice in both the cases, the petitioner appeared for one hearing before the court below. At that point of time, the learned Magistrate was on other duty. Hence, the case was posted to some other date. Thereafter, the petitioner did not appear before the court below.

4. However, the learned Magistrate after taking note the following facts that the complainant/petitioner had failed to take steps to serve summons on the accused, nor paid the process fee and since the case is pending for a long time, had dismissed the complaint under Section 204(4) Cr.P.C.

5. It is relevant to point out Section 204(4) of Cr.P.C. which would read as :

204 (i) ..
(ii) ...
(iii) ...

(iv) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint

6. In view of the above settled position, I do not find any illegality or infirmity in the orders passed by the court below. Hence, these Criminal Revision Petitions fails and the same are dismissed.

-sd/-

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ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

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To

1. The XVI Metropolitan Magistrate Court,
George Town, Chennai.

2. The Chief Metropolitan Magistrate,
Egmore, Chennai

Cr1. R.C.Nos. 535 & 536 of 2009

CO-TEJ
JD 07/10/2015



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