

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.A.No.632 of 2016

T.Kumar ... Appellant/Complainant

Vs.,

V.R.Senthilkumar ... Respondent/Accused

Prayer: Criminal Appeal filed under Section 378 of the Criminal Procedure Code, against the judgement and order dated 22.01.2016 in S.T.C.No.186 of 2015 passed by the learned Judicial Magistrate (Fast Track Court No.I), Erode.

For Petitioner : Mr.M.N.Balakrishnan
For Respondent : Mr.M.Guruprasad

ORDER

This appeal has been filed by the appellant as against the order dated 22.01.2016 in S.T.C.No.186 of 2015 passed by the learned Judicial Magistrate (Fast Track Court No.I), Erode, in and by which the complaint preferred by the appellant herein was dismissed for non-appearance of the complainant on 22.01.2016, thereby acquitting the accused/respondent herein.

2.The appellant herein has filed a complaint against the respondent in S.T.C.No.186 of 2015 for the alleged offence punishable under Sections 138 & 142 of Negotiable Instruments Act. Since the complainant/appellant herein was absent on the hearing date i.e., 22.01.2016, the said complaint was dismissed by the Court below and consequently, the respondent herein/accused was acquitted. Aggrieved over the same, the present appeal has been filed by the appellant.

3.The learned counsel for the appellant submitted that before the Court below, the appellant/complainant was regular in attending the Court on all hearing days and he was represented through his counsel on several hearing dates; that the the petitioner and his counsel did not appear before the Court below

at the time of calling of case only on 22.01.2016; but, the Court below without giving any further opportunity dismissed the complaint on the ground of non-prosecution. Further, the appellant/complainant has fair chance to win the case on merits. Thus, the learned counsel for the appellant/complainant sought for setting aside the impugned order.

4.The learned counsel for the respondent made his submissions opposing the prayer of the appellant.

5.Heard the submissions made on either side and perused the materials available on record. Considering the facts and circumstances of the case, this Court is of the opinion that in the interest of justice, one more opportunity must be given to the appellant/complainant to put forth his case and also to decide the matter on merits.

6.Hence, the criminal appeal is allowed and the impugned order is set aside. The Court below is directed to restore the complaint on file and proceed with the matter in accordance with law and complete the trial within a period of six months from the date of receipt of a copy of this order.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ssv

To,

1.The Judicial Magistrate,
(FTC-I), Erode.

+1 CC to Mr. M. Guruprasad, Advocate Sr.No.47768

+1 CC to Mr. M.N. Balakrishnan, Advocate Sr.No.47549

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PUR (CO)

MD : 05/10/2016