

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM:

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

Crl.R.C.No.1124 of 2016
and
Crl.M.P.Nos.9755 and 9756 of 2016

Smt.P.Gunasundari,
W/o.Pradeep Samdaria ...Petitioner

Vs.

Smt.Kamala Kavar ...Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to call for the records in C.A.No.129 of 2015, dated 17.08.2016 on the file of learned XV Additional Sessions Judge, Chennai and confirming the order/judgment passed in C.C.No.16402 of 2007, dated 02.06.2015 on the file of the learned Metropolitan Magistrate, Fast Track Court -IV, George Town, Chennai and set aside the same by allowing the criminal revision.

For Petitioner : Mr.T.G.Ravichandran

For Respondent : No Appearance

O R D E R

The petitioner challenges the judgment passed by learned XV Additional Sessions Judge, Chennai made in Criminal Appeal No.129 of 2015, dated 17.08.2016, dismissing the appeal for non-prosecution.

2. Heard learned counsel for petitioner.

3.Though respondent has not been served, this Court, to give one more opportunity, ordered private notice and the same was returned as 'not known'. In such circumstances, this Court without waiting for respondent is inclined to decide the case on merits.

4. A perusal of judgment under challenge reveals that appeal against conviction in respect of offence under Section 138 of Negotiable Instrument Act has been dismissed for default. Appeal against conviction cannot be dismissed so. For said reason, this revision stands allowed.

5. Learned counsel for revision petitioner submitted that he is ready to argue the case before the Court below and the same is recorded. He further submitted that a petition under Section 391 Cr.P.C has been moved by revision petitioner and the same has not received consideration by the Court below.

6. Considering submission made by learned counsel for revision petitioner, C.A.No.129 of 2015 is remanded to the appellate Court for fresh disposal. Learned XV Additional Sessions Judge, Chennai is directed to consider petition u/s 391 Cr.P.C., filed by petitioner solely on merits and to dispose of the appeal after hearing arguments of either side at an early date. The undertaking of learned counsel for petitioner that he will duly co-operate towards expeditious disposal is recorded. The Court below may view seriously any protraction of proceedings. In the absence of co-operation, Court below may proceed to pass a reasoned order on merits. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The learned XV Additional Sessions Judge,
Chennai
2. The learned Metropolitan Magistrate,
Fast Track Court -IV,
George Town, Chennai
3. The Public Prosecutor,
High Court, Chennai.

KSJ(CO)
RS(02/02/2017)

CrI.R.C.No.1124 of 2016