

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.627 of 2016

S.Vinoth Babu

.. Petitioner/Compalainant

Vs.

N.Ravi

.. Respondent/Accused

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 04.01.2016 made in STC.No.254 of 2012 on the file of the Judicial Magistrate, Fast Track Court No.II, Erode.

For Petitioner : M/s.A.Saravanan

For Respondent : No appearance.

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate, Fast Track Court No.II, Erode in STC.No.254 of 2012 dated 04.01.2016, dismissing the application under Section 256 Cr.PC.

2.The learned counsel for the petitioner contended that the case was posted on 04.01.2016, for the appearance of both parties before the trial Court. The petitioner was not able to appear before the trial Court due to acute abdominal pain, the petitioner informed the same to his counsel. But the learned counsel appearing before the trial Court neither appeared before the trial Court nor informed the same, the non appearance of the petitioner before the court is neither wilful nor wanton and hence prays this Court to set aside the order of dismissal and restore the case on file.

3.Heard the learned counsel for the petitioner. Even though, the name of the respondent is printed in the cause list, there is no representation on behalf of the respondent either in person or through his counsel.

4.It is the case of the petitioner that the case was posted on 04.01.2016 for appearance of both parties, the petitioner was unable to appear before the Court due to his acute abdominal pain, he informed to his counsel, but the lower court counsel

failed to appear before the Court nor informed the same. There is no contra argument on the side of the respondent, the respondent also not appeared before the Court on the said day.

5.This court finds no reason to disbelieve the arguments advanced by the learned counsel for the petitioner and inclined to allow the revision petition filed by the petitioner by imposing condition on him to pay a cost of Rs.500/- (Rupees five hundred only) before the District Legal Services Authority, Erode.

6.In the result, the criminal revision petition is allowed, on condition that the petitioner is directed to pay a cost of Rs.500/- (Rupees five hundred only) before the District Legal Services Authority, Erode, within seven days from the date of receipt of copy of this order, on such payment the trial Court is directed to restore the STC.No.254 of 2012 on the file of Judicial Magistrate, Fast Track Court No.II, Erode. Considering the pendency of the case, this Court directs the trial Court to dispose of the main case preferably within a period of three months from the date of receipt of a copy of this order.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate, Fast Track Court No.II,  
Erode.

2.The District Legal Services Authority,  
Erode.

+1cc to Mr.A.Saravanan, Advocate SR.36000

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srg 12/07/2016