

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.767 of 2016

Ramila Jain ... Petitioner/Complainant
Rep.by her Power Agent
Surendra Kumar Jain.

Vs.

N.K.Mohideen ... Respondent/Accused

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, against the dismissal order of dismissal dated 28.05.2015 passed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai, in C.C.No.13624 of 2014.

For Petitioner: Mr.N.Suresh

For Respondent: No Appearance

ORDER

This Criminal Revision Case is directed against the order passed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai, in C.C.No.13624 of 2014, dated 28.05.2015, dismissing the complaint filed by the petitioner as steps not taken.

2. The learned counsel appearing for the petitioner would contend that since the petitioner's mother has suddenly expired at Rajasthan due to heart attack, the petitioner was not able to appear before the learned Magistrate from 03.12.2014 to 28.05.2015. Due to non-appearance of the petitioner on 28.05.2015, the learned Metropolitan Magistrate had dismissed the complaint filed by the petitioner. The learned counsel for the petitioner would further contend that the failure of the petitioner to appear before the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai, is neither willful nor wanton and hence, the learned counsel prayed that the order passed by the learned Magistrate may be set aside and this criminal revision case may be allowed.

3. Despite service of private notice, the respondent has not made appearance before this Court either in person or through a counsel.

4. This Court heard the submissions made by the learned counsel appearing for the petitioner and perused the records.

5. The argument of the learned counsel for the petitioner that since the petitioner's mother had suddenly expired at Rajasthan due to heart attack and since the petitioner has to finish all death ceremony, he was not able to appear before the Court is accepted. The petitioner/complainant is very much interested in prosecuting the case. Because of the reason that the petitioner's mother had suddenly expired, the petitioner was not able to appear before the Court. The failure of the petitioner to appear before the learned Magistrate has to be condoned. Further, since there is no representation on behalf of the respondent and there is no contra argument, this Court is inclined to allow the criminal revision case.

6. In the result, this Criminal Revision Case is allowed and the order dated 28.05.2015 passed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai, in C.C.No.13624 of 2014, is set aside. The learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai, is directed to dispose of the case in C.C.No.13624 of 2014, within a period of two months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

The Metropolitan Magistrate,
Fast Track Court-II, Egmore, Chennai.

1 cc to Mr.N.Suresh, Advocate, sr.35977

Cr1.R.C.No.767 of 2016

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kra 13.07.2016