

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

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

Crl.R.C.No.86 of 2016
and
Crl.M.P.No.903 of 2017

Shahul Hameed

.. Petitioner

vs.

V.Murugaboopathy
S/o.Viswanathan

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order of learned XV Additional Sessions Judge, Chennai, passed in Crl.M.P.No.402 of 2016 in C.A.No.272 of 2014 on 24.11.2016.

For Petitioner : Mr.C.V.Kumar

ORDER

This revision challenges the order of learned XV Additional Sessions Judge, Chennai, passed in Crl.M.P.No.402 of 2016 in C.A.No.272 of 2014 on 24.11.2016.

2. Respondent has preferred an appeal in C.A.No.272 of 2014 on the file of learned XV Additional Sessions Judge, Chennai, against his conviction for offence u/s.138 of the Negotiable Instruments Act passed under judgment in C.C.No.1335 of 2013 on the file of learned Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai, dated 01.10.2014. Petitioner is the complainant in the case. On finding both the petitioner as also the respondent not present before it on 15.07.2016, Appellate Court has dismissed C.A.No.272 of 2014 for default. Thereafter, respondent/ appellant/accused had moved Crl.M.P.No.402 of 2016 seeking restoration of the case. Upon such petition being allowed under orders dated 24.11.2016, petitioner/respondent/ complainant is before this Court by way of this revision.

3. Heard learned counsel for petitioner.

4. Once having dismissed the appeal, Court below having become *functus officio*, had no authority to entertain Crl.M.P.No.402 of 2016 seeking restoration. Even so, taking into account the position in law that a Criminal Appeal cannot be dismissed for default, this Court merely would direct learned XV Additional Sessions Judge, Chennai, to dispose of C.A.No.272 of 2014 on his file within a period of one month from the date of receipt of this order. The order of this Court should be strictly complied with.

The Criminal Revision Case is disposed of with the above direction.
Connected miscellaneous petition is closed.

09.02.2017

Note to office:
Issue order copy by 13.02.2017

Index:yes/no
Internet:yes
gm

To
The XV Additional Sessions Judge,
Chennai.

C.T. SELVAM, J

gm

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