

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.884 of 2016
and CMP.No.6744 of 2016

Sudharsanam

.. Petitioner/Appellant

Vs.

Jayaraman

.. Respondent/Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed by the Principal District and Sessions Judge, Thiruvallur and made in CMP.No.2510 of 2015 in CA.No.67 of 2014 dated 30.11.2015.

For Petitioners : Mr.C.S.Saravanan

For Respondents : Private notice served on respondent

No appearance.

ORDER

This Criminal Revision is directed against the order passed by the learned Principal District and Sessions Judge, Thiruvallur in Crl.MP.No.2510 of 2015 in CA.No.67 of 2014 dated 30.11.2015.

2.The learned counsel for the petitioner would submit that the petitioner was convicted for the offences under Sections 138 and 142 of Negotiable Instruments Act, against the order of conviction and sentence passed by the learned Judicial Magistrate, Fast Track Court, Magisterial level, Thiruvallur in CC.No.305 of 2012 dated 17.06.2014, the accused preferred criminal appeal before the learned Principal District and Sessions Judge, Thiruvallur in C.A.No.67 of 2014. During the pendency of the criminal appeal, the accused filed CMP.No.2510 of 2015 to issue summon to the Inspector of Police, Thiruvallur Town Police Station to produce the CD file pertaining to the complaint dated 20.12.2011 and to summon one Rajasekar residing at No.13, Bakarachah Street, Secretariat Colony, Ayanavaram Police Commissioner Office opposite, to depose evidence.

3.The lower appellate Court on 30.11.2015, passed the following order, which reads hereunder :-

"Appellant absent, Counter perused. This Court finds no merits in this petition for production of records. This petition is filed at the appellate stage belatedly after one years. This clearly indicates the intention of the appellant to protrait the proceedings. Further the appellant and his counsel is not ready to conduct the case. Hence petition dismissed."

4. Aggrieved over the said order of dismissal in CMP.No. 2510 of 2015, the accused preferred the present revision before this Court.

5. The learned counsel for the petitioner mainly contended that on that particular day, the appellant was not able to represent the case, the absence of the appellant is neither willful or wanton, due to heavy rain the petitioner could not be able to attend the Court and without giving opportunity, the petition was dismissed. The dismissal order has to be set aside and prays to allow the revision.

6. Heard the learned counsel for the petitioner. Though, notice was duly served on the respondent, there is no representation on behalf of the respondent, the name of the respondent is printed in the cause list.

7. In this case, the reason stated by the petitioner in his petition that on that particular date of hearing, the petitioner was absent due to heavy rain, the petitioner could not attend the court is neither willful nor wanton. Considering the reason stated by the petitioner, this Court is of the considered view that one more opportunity may be given to the petitioner to put forth his case in the CMP.No.2510 of 2015, the order of dismissal of the application by the lower appellate Court is erroneous and the order of the lower appellate Court is liable to be set aside and the same is hereby set aside.

8. In the result, the criminal revision petition is allowed and the order passed in CMP.No.2510 of 2015 in CA.No.67 of 2014 dated 30.11.2015 is set aside. The matter is remitted back to the file of learned Principal District and Sessions Judge, Thiruvallur, the lower appellate Court is directed to dispose of the case, on merits and in accordance with law, preferably within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

tsh

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

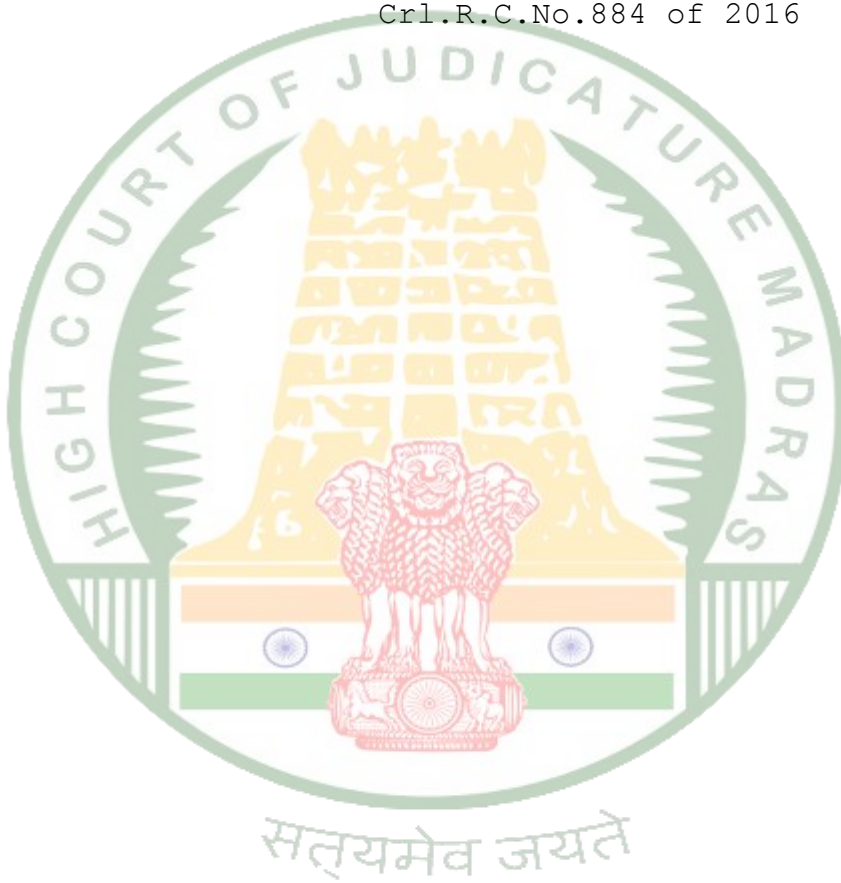
1. The Public Prosecutor, High Court, Madras.
2. The Principal District and Sessions Judge, Thiruvallur
3. The Judicial Magistrate, Fast Track Court,
Magisterial level, Thiruvallur.

+ 1 cc to Mr.C.S.Saravanan, Advocate SR 46926

+ 1 cc to Mr.R.Rajesh Vivekananthan, Advocate SR 47004

gj(co)
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Crl.R.C.No.884 of 2016



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