

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

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

Cr1.R.C.No.985 of 2016

Venkatasubramaniyan

..Appellant/Complainant

vs.

Veeramani Kannan
@ V.Kannan

.. Respondent/Accused

Criminal Revision filed under section 397 and 401 Cr.P.C. to set aside the order dated 28.09.2012 passed in C.C.No.15196 of 2008 on the file of Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai.

For Petitioner : Mr.K. Selvarangan

For Respondent : No Appearance

O R D E R

This revision challenges against the order of learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai passed in C.C.No.15196 of 2008 on 28.09.2012 in dismissing the complaint for offence under Section 138 of Negotiable Instruments Act.

2. Heard learned counsel for petitioner. There was no representation for respondent though private notice was ordered. Hence, petitioner effected substituted service and proof of same was also filed under USR No.3497.

3. A perusal of judgment reveals that petitioner/complainant filed a complaint on 10.03.2008. Non-Bailable Warrant issued against the respondent was also pending. There was no representation for petitioner and no steps have been taken by him. Hence, learned Judge dismissed the complaint for non-payment of process Fee.

4.A perusal of adjudication papers reveals the present case is a where despite once having had a Non Bailable Warrant recalled, the accused has succeeded in tiring the petitioner in the prosecution of his case. Such should not be.

5.The order passed in C.C.No.15196 of 2008 on 28.09.2012 by learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai is set aside and C.C.No.15196 of 2008 is restored on file. Learned counsel for petitioner is directed to proceed with the case before the Court below. The present order shall not stand in any way of the Court below in exercising its discretion under Section 204 (4) in disposing the case if petitioner/defacto complainant, is not vigilant in pursuing his cause. The learned Judge is directed to dispose of the case as expeditiously as possible. Liberty is given to petitioner to take steps to execute the Non-Bailable Warrant pending against respondent.

6. In the result, this Criminal Revision is disposed of.

s/d-
Assistant Registrar(CCC)

//True Copy//

Sub-Assistant Registrar

To

1. The Metropolitan Magistrate,
Fast Track Court No.II,
Egmore, Chennai.
2. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

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