

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL APPEAL No.1224 OF 2016

ORDER:

The appellant/complainant filed the instant petition being aggrieved by the order dated 08.10.2014 in C.C.No.221 of 2013 on the file of Special Magistrate, Amalapuram, whereby the complaint filed by him under Section 138 & 142 of Negotiable Instrument Act (N.I Act) has been dismissed.

Learned counsel appearing on behalf of the appellant/complainant submits that the lower court ought to have seen that the appellant/complainant had no intention to avoid attending the court. His absence is only due to his ill health on the date fixed before the court. He further submits that the case was fixed for trial and appellant/complainant was ready for filing his chief affidavit. But as he was suffering with viral fever, he could not file the chief affidavit and attend the Court.

The date of offence was 01.09.2011 and complaint filed on 14.06.2012. Till the date of dismissal of the complaint i.e., 08.10.2014, the appellant/complainant did not file his chief affidavit. Moreover, he has not appeared on 8.10.2014. Accordingly, finding no option, the court below dismissed the C.C. No.217 of 2012 on 08.10.2014.

The main ground in the appeal is that he could not appear before the court due to ill health as he was suffering with viral fever. The appellant/complainant has not filed any proof in regard thereto that he suffered with fever and consulted with any doctor.

Keeping in view the grounds raised in the appeal and the submissions of learned counsel for the appellant/complainant, I find no ground to interfere with the order passed by the Court below.

Accordingly, this Criminal Appeal is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date :09-12-2016

Gvl

