

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

Crl.R.C.No.1098 of 2017

R.Syed Mustafa

.. Revision Petitioner /Complainant

-VS-

J.Sabiroon

.. Respondent/Accused

Prayer: Revision filed under Section 398 and 401 of Cr.P.C., praying to call for records in S.T.C.No.13 of 2017 on the file of the Judicial Magistrate No.VI, Salem and set aside the order of dismissal under Section 204(4) of Cr.P.C. On 03.07.2017.

For Revision Petitioner : Mr.K.V.Sridharan

For Respondent : No Appearance

O R D E R

Originally, the complaint has been filed under Section 200 Cr.P.C. r/w Sections 138 and 142 of Negotiable Instruments Act, alleging that the accused borrowed a sum of Rs.1,00,000/- from the complainant on 10.05.2015 and it is not repaid.

2. The complaint has been taken on file on 09.01.2017 under Sections 138 and 142 of N.I.Act and summons have been ordered to be issued for the appearance of the accused for the hearing 01.02.2017.

3. On 03.07.2017, the complaint has been dismissed under Section 204(4) of Cr.P.C. on the ground that process fee is not paid and that complainant is absent. This order is under challenge in this revision petition.

4. It is stated in the revision petition that the respondent / accused appeared through counsel and an NBW was issued against the accused for his subsequent non appearance. It is alleged that even after NBW being recalled, the accused again absented herself on 24.05.2017 and thereafter, it has been dismissed for the reasons stated above.

5. Section 204(4) of Cr.P.C. reads as under:

"(4) When by any law for the time being in force any process- fees or other fees are payable, no

process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint."

6. It is stated that the complainant was not well on that date and only because of that, he could not appear and pay the process fee on that date and that the complainant would be regular and prompt in future hearings.

7. Recording the undertaking given by the complainant, the order of dismissal dated 03.07.2017 passed in S.T.C.No.13 of 2017 by the learned Judicial Magistrate No.VI, Salem is set aside, having regard to the amount involved in the complaint. The complaint stands revived and the petitioner is directed to appear before the Lower Court regularly and to pay the process fee.

8. With this observation, the revision petition is ordered.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ogy/gln/ar

To:

1.The Judicial Magistrate No.VI,
Salem.

copy to:

The section officer,
crl. Section Records, high court, madras.

+lcc to Mr.K.V.Sridharan,Advocate,in sr.80864

CrI.R.C.No.1098 of 2017

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