

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.10.2017

Coram:

The Honourable Mr. Justice C.T. SELVAM

Criminal Appeal No. 530 of 2007

Mr. Alagarasan

...Appellant

Versus

Mr. V. Murugesan

...Respondent

This Criminal Appeal is filed under Section 378 of the Criminal Procedure Code against an order, dated 21.05.2007, passed in C.C.No.56 of 2005 on the file of the Judicial Magistrate at Harur of Dharmapuri District

For Appellant : Mr. R. Rajasekaran
For Respondent : M/s. S. S. Jhothivani,
Legal Aid Counsel

J U D G M E N T

This Criminal Appeal arises against an order dated 21.05.2007 passed in C.C.No.56 of 2005 on the file of the Judicial Magistrate at Harur of Dharmapuri District dismissing complaint filed u/s.138 of Negotiable Instruments Act u/s.256 Cr.P.C.

2. Appellant/complainant moved prosecution informing that respondent obtained a loan of Rs.1,00,000/- from the complainant as a loan and towards repayment, accused issued a cheque bearing No. 0752583 dated 03.12.2004, drawn on State Bank of India, Harur Branch, which upon presentation was returned unpaid for the reason "insufficient funds". The complainant caused statutory notice. A complaint has been preferred alleging offence u/s. 138 and 142 of the Negotiable Instruments Act. As there was no representation for appellant/complainant, Court below has dismissed such complaint and acquitted the accused under judgment dated 21.05.2007. There against, the present revision has been filed.

3. Heard learned counsel for appellant and learned counsel for respondent.

4. The order does not reflect any continuous intransigence on the part of the appellant/complainant in prosecuting his case. Though the respondent has been served, he has failed to appear before this Court, leading to the appointment of a Legal-Aid Counsel to represent him.

5. This Court is of the view that interests of justice would be served by setting aside the order under challenge and affording appellant an opportunity to prosecute his case on merits.

6. Accordingly, this appeal is allowed. Case in C.C.No.56 of 2005 on the file of the Judicial Magistrate, Harur shall stand restored, to the file of the Judicial Magistrate, Harur. The Court below is directed to cause notice to the respondent and proceed further in accordance with law.

7. The submission made on behalf of the appellant/complainant that he will duly co-operate with the Court below in early disposal of the case is recorded. Court below is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate,
Harur.

2. The Public Prosecutor,
High Court,
Madras.

Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s. S. S. Jhothivani, Advocate, sr.no.72296

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ssd(co)
nr 27/12/2017