

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 14.07.2017****CORAM****THE HON'BLE MR.JUSTICE V.BHARATHIDASAN****Cr1.R.C(MD)No.137 of 2017**

Premkumar

... Petitioner/Complainant

-Vs-

Neethi Raja Kuber
Son of R.T.Manoharan,
Proprietor, B.S.C.Builders,
2H/831, S.B.M.Nagar, ,
North side Second Street,
Rajiv Nagar Extension,
Tuticorin.

... Respondent/Accused

Prayer : Criminal Revision Case filed under Section 397 r/w 401 and 482 of the Code of Criminal Procedure, praying this Court to call for the records and to set aside the order of the learned Judicial Magistrate/Fast Track Court(Magisterial Level), Thoothukudi passed under Section 204(4) of Cr.P.C. On 5.12.2014 in C.C.No.35 of 2012 and to restore the same to file for fresh disposal on merits.

For Petitioner : Mr.Antony s.Prabhakar

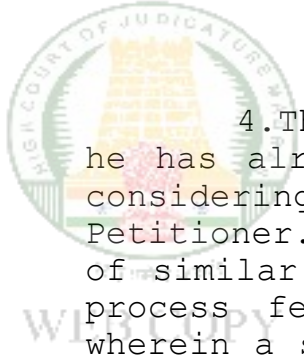
For Respondent : No appearance

O R D E R

Dismissing the Petition filed under Section 204(4) of Cr.P.C for not taking process fee by the Complainant, this revision is filed.

2.The Petitioner filed a complaint under Section 138 of Negotiable Instruments Act against the respondent claiming that he has borrowed a sum of Rs.14,40,000/- and in order to discharge the same, the respondent issued a cheque and when the same was presented for collection, it was returned with an endorsement as 'insufficient fund' thereafter, after complying with the legal formalities, he filed the present complaint. Since the respondent-accused was not present for a hearing before the Court below, a Non-Bailable Warrant was issued against him, for which, the Petitioner did not pay the process fee. The learned Judicial Magistrate dismissed the said complaint stating that the process fee was not paid. Challenging the same, the present revision has been filed.

3.I have heard the submissions of Mr.Antony S.Prabhakar, learned counsel for the Petitioner and considered the materials available on record.



4.The learned counsel for the Petitioner would submit that he has already paid the process fee. But the Court below without considering the same, dismissed the complaint filed by the Petitioner. The learned Judicial Magistrate had dismissed 140 cases of similar nature, on a single day, without even verifying whether process fee paid or not. This Court, in another complainant, wherein a similar order was challenged, had allowed the revision in Cr1.R.C.(MD)No.106 of 2016, dated 28.04.2015.

5.Following the same, this Civil Revision Case is allowed and the order of the learned Judicial Magistrate/Fast Track Court (Magisterial Level), Thoothukudi passed in C.C.No.35 of 2012, dated 05.12.2014 is set aside and C.C.No.35 of 2012 is restored to file. The trial Court is directed to take the complaint on file and proceed further with the case in accordance with law.

Sd/-

Assistant Registrar(Cr1.Side)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate/Fast Track Court
(Magisterial Level),
Thoothukudi.

2.-do-Thro' Chief Judicial Magistrate,
Thoothukudi.

VSN

JS/GT/SAR.2/1.8.2017/2P-3C

Cr1.R.C(MD) No.137 of 2015
14.07.2017