



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.297 of 2017

K.S.D.J. Ponsingh

: Petitioner / Complainant

Vs.

Rajasekar @ Christantain Rajasekar

: Respondent / Accused

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records relating to the orders passed in C.C.No.420 of 2014 by the Learned Judicial Magistrate, Thiruchendur, dated 05.04.2016 and set aside the same by allowing the Revision Petition.

For Petitioner : Mr.RSrinivasan

For Respondent : Mr. T.A.Ebenezer

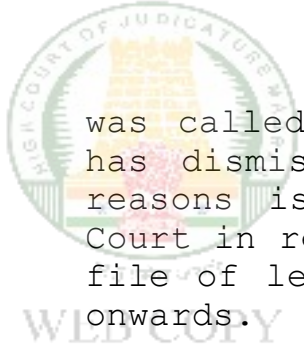
ORDER

This Criminal Revision Case is filed praying to set aside the orders passed in C.C.No.420 of 2014, by the learned Judicial Magistrate, Thiruchendur, dated 05.04.2016

2. I have heard the learned counsel appearing on either side and perused the materials available on record.

3. The present revision is preferred against the order of dismissal, dated 05.04.2016, on a complaint filed under Section 138 of Negotiable Instruments Act, by the petitioner herein because, there was no representation by the complainant or his counsel from 28.08.2015 onwards. It is also admitted that the petitioner was not present on 05.04.2016 and also there was no representation on the side of the complainant before the concerned trial Court.

4. The learned counsel appearing for the petitioner states that due to hectic schedule, the petitioner could not appear before the trial Court on 05.04.2016 and he has also informed to his counsel to file a petition under Section 256 of Cr.P.C., but before the counsel could reach the Court, the case



was called up and the learned Judicial Magistrate, Thiruchendur, has dismissed the said complaint for no representation. No reasons is assigned for no representation before the concerned Court in respect of the case in C.C.No 420 of 2014, pending on the file of learned Judicial Magistrate, Thiruchendur from 28.08.2015 onwards.

5. The learned Counsel for the respondent states that the respondent filed a petition in Crl.O.P(MD)No.1458 of 2015, before this Court, for quashing the said case, in which, interim stay was granted by this Court on 23.02.2015.

6. The learned Counsel for the petitioner states that the said order copy is not served upon petitioner herein and he agreed to pay costs, if levied by this Court, for which, the counsel for the respondent also agreed.

7. Admittedly, the case in C.C.No.420 of 2014 on the file of the learned Judicial Magistrate, Thiruchendur, is based on issuance of three cheques for Rs.5,00,000/-, each given by the respondent herein and those cheques were returned, as insufficient funds and the petitioner filed a complaint before concerned Court and it was taken on file in the year 2014 itself. In the above facts and circumstances, this Court is inclined to allow the Revision, in order to give an opportunity to the petitioner herein to conduct the case.

8. In the result, the Criminal Revision is allowed by setting aside the order passed by the learned Judicial Magistrate in C.C.No.420 of 2014, dated 05.04.2016 on condition that the petitioner has to deposit a sum of Rs.2000/- (Rupees Two Thousand Only) in Savings Bank Account No.6514082295, Indian Bank, Madurai Bench of Madras High Court, Madurai, operated by the Registrar (Administration), (Removal of Karuvelam Trees), within a period of three weeks from the date of receipt of a copy of this order. On such filing a proof for deposit of the amount, the trial Court is directed to take up the case in C.C.No.420 of 2014, on file for further proceedings and to dispose of same on merits and in accordance with law, as early as possible.

SD/-
ASSISTANT REGISTRAR(CS-III)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1.The Judicial Magistrate,



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3. The Record Keeper,
Criminal Section,
Madurai Bench of Madras High Court.

4.The Indian Bank,
Madurai Bench of Madras High Court.
Madurai.

5.The Registrar(Administration)
Madurai Bench of Madras High Court.
Madurai.

+1 CC TO Mr. T.A.Ebenezer,Advocate,SR NO.18651

+1 CC TO MR.R.SRINIVASAN,ADVOCATE,SR NO.18648

MPK

MAS/RSK/SAR4:12.04.2017:3P-8C

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Dated:-
28.03.2017