



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Cr1.R.C. (MD) No.767 of 2017

T.S.Muruganantham

... Petitioner/Appellant/Accused

Vs.

A.Veeramani

...Respondent/Respondent/Complainant

PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the records pertaining to the order dated 22.12.2016 made in Cr1.A.No.58 of 2016 on the file of Principal Sessions Judge, Tiruchirapalli Division, Trichy and set aside the same by allowing the above revision petition.

For Petitioner	:Mr.M.Dinesh
For Respondent	:No Appearance

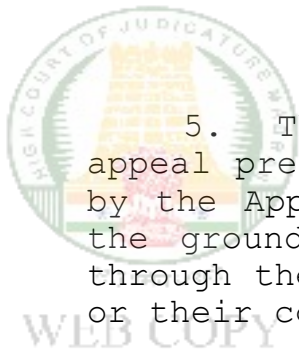
ORDER

This Criminal Revision has been filed to set aside the order dated 22.12.2016 passed in Cr1.A.No.58 of 2016 by the learned Principal Sessions Judge, Tiruchirapalli Division, Trichy by allowing this Criminal Revision case.

2. The learned counsel for the petitioner is present. Court notice to the respondent is awaited. Private notice was taken and it was served upon the respondent. Proof of service is also filed along with the acknowledgment card. Hence, service is sufficient for the respondent herein. The respondent called absent today. No representation by the respondent side.

3. Heard.

4. The petitioner herein is arrayed as an accused in C.C.No.213 of 2014 under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate No.I, Trichy. After trial, the petitioner was convicted to undergo 6 months S.I under Section 138 of Negotiable Instrument Act and to pay compensation of Rs.1,85,000/- under Section 357 Cr.P.C. Aggrieved by the order of the trial Court judgment, the petitioner preferred an appeal before the learned Principal Sessions Judge, Tiruchirapalli in Cr1.A.No.58 of 2016. The said appeal was dismissed for default by the Appellate Court, as per judgment dated 22.12.2016. Against the said order of dismissal passed by the Appellate Court, the present Criminal Revision is preferred by the accused before this Court for setting aside the said order.



5. The learned counsel for the petitioner submitted that the appeal preferred by the petitioner herein was dismissed for default by the Appellate Court and no Criminal Appeal can be dismissed on the ground of default in non-appearance and the Court has to go through the records of the case even in the absence of the appellant or their counsel and decide the matter on merits.

6. The learned counsel for the petitioner relied upon one judgment of this Court in Crl.M.P(MD)No.554 of 2012 dated 06.04.2017 between the **Ambedkumar Vs State by The Inspector of Police, All Women Police Station, Malemaruvathur, Kancheepuram District in Crime No.14 of 2003.** The Hon'ble Apex Court in a case reported in **1994 (1) SCC (Crl.) 1320 in Parasuram Patel and others Vs State of Orissa** has held that the Criminal Appeal cannot be dismissed for the absence of the accused.

7. Considering the facts and circumstances of the case, this Court is inclined to allow this Criminal Revision, setting aside the judgment of the lower Appellate Court. Accordingly, the matter is remanded back to the lower Appellate Court and the lower Appellate Court is directed to consider the same on merits and in accordance with law and dispose of the same after giving an opportunity of hearing to the petitioner herein. The said exercise shall be done by the Appellate Court preferably within a period of four months from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The Principal Sessions Judge,
Trichirappalli Division,
Trichy.

+1cc to M/s. VEERA ASSOCIATES Advocate in SR. No. 91415

VSA

JS/SV.MMS/SAR.4/22.12.2017/2P-3C

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