

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2018

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.70 of 2018

and

Crl.M.P.Nos.493 and 494 of 2018

S.Latha

W/o.Siddarthan

.. Petitioner/ Appellant/ Accused

Vs.

S.Rajagopal

S/o.Subramanian

.. Respondent/ Respondent/ Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment of learned District and Sessions Judge, Thiruvallur, passed in C.A.No.46 of 2016 on 11.08.2016 confirming the judgment of learned Judicial Magistrate, Fast Track Court (Magisterial Level), Thiruvallur, passed in C.C.No.2 of 2014 on 11.05.2015.

For Petitioner : Mr.G.Maniprabhu

O R D E R

This revision challenges the judgment of learned District and Sessions Judge, Thiruvallur, dated 11.08.2016, dismissing the appeal in C.A.No.46 of 2016 against conviction of petitioner by trial Court for offence u/s.138 of the Negotiable Instruments Act.

2. Given the clear violation of law by appellate Court in passing the order under challenge, this Court does not consider it necessary to cause notice to respondent/complainant.

3. Heard learned counsel for petitioner.

4. Paragraph No.9 of the order of appellate Court reads as follows:

'9. On 18.08.2016 the appellant called absent and the respondent is present. As there is no arguable and substantial question involved in this criminal appeal in favour of the appellant, the appellant is

protracting the cases in one way or other and evading to argue the case. The criminal appeal is pending from 03.08.2016 without any progress for the arguments of Appellant.

Considering the facts and circumstances of the appeal, the appeal is dismissed, confirming the judgment of conviction and sentence passed by the trial court in C.C.No.2/2014 dated 11.05.2015.'

An appeal against conviction cannot be so dismissed for default. In the event of continued non-representation on behalf of appellant it would be open to Court below to pass a considered judgment in the appeal on merits.

5. The Criminal Revision Case shall stand allowed. The judgment of learned District and Sessions Judge, Thiruvallur, passed in C.A.No.46 of 2016 on 11.08.2016, shall stand set aside. The matter is remitted back to the appellate Court for fresh consideration and disposal on merits and in accordance with law. Connected miscellaneous petitions are closed.

Learned counsel for petitioner submits that pursuant to the judgment of appellate Court under challenge herein, the trial Court has issued non-bailable warrant against petitioner. It will now be open to petitioner to bring to notice of trial Court the present order of this Court and to seek recall thereof.

Sd/-

Assistant Registrar

/true copy/

Sub Assistant Registrar

gm

To

- 1.The District and Sessions Judge,
Thiruvallur.
- 2.The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Thiruvallur.
3. do through the Metropolitan Magistrate,
Egmore, Chennai-8

4.The Public Prosecutor,
High Court, Madras - 600 104.

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

1 cc to M/s. G. Maniprabhu, Advocate, sr. 3093

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