

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.142 of 2007
and
M.P.No.1 of 2007

Mr.K.Mohammed Sulaiman Sait Appellant / Complainant

Vs

Mr.Mohammed Gani Respondent / Accused

Prayer : This Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the order of dismissal of the Complaint and acquittal of the Accused dated 04.01.2007 passed in C.C.No.7069 of 2006 on the file of the XIX Metropolitan Magistrate, Madras.

For Appellant : Mr.B.R.Shankaralingam
For Respondent : Mr.S.Jayaseelan

JUDGMENT

The appellant herein filed a private complaint against the respondent under Section 138 of the Negotiable Instruments Act, on the file of the VII Metropolitan Magistrate Court, George Town, Chennai in C.C.No.1028 of 2002. Thereafter, the respondent entered appearance on the above said case and subsequently the case was transferred to the file of the VIII Metropolitan Magistrate Court, George Town, Chennai. The appellant was examined and he was also cross examined by the respondent counsel. Thereafter, the respondent has filed Transfer Application before the Principal Sub-Judge, City Civil Court, Chennai for transfer of the above case. Accordingly, the said case was transferred to the file of XIX Metropolitan Magistrate Court, Chennai on 09.11.2006 and after transfer the said case has been re-numbered as C.C.No.7069 of 2006.

2. The appellant submits that his counsel did not inform about the transfer of the case to XIX Metropolitan Magistrate Court, Chennai. However, on verification, the counsel appearing

for the appellant/complainant sent a letter to the old address of the appellant and the same was returned with an endorsement "No such person". In view of the above the appellant/complainant not able to appear before the Court and the same was dismissed for non-prosecution. Against which the present appeal is filed.

3. The learned counsel for the respondent would submit that he has no serious objection for remanding the matter for fresh disposal.

4. In view of the above, I am inclined to set aside the order of dismissal and remand the matter to the trial court for fresh consideration. Accordingly, the order dated 04.01.2007 passed in C.C.No.7069 of 2006 is set aside and the matter is remanded back to the XIX Metropolitan Magistrate Court, Chennai. The XIX Metropolitan Magistrate, Chennai shall proceed with the case and pass final orders within a period of four months from the date of receipt of a copy of this order, after affording opportunity to the defence side.

5. With the above direction, this Criminal Appeal is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The XIX Metropolitan Magistrate,
Chennai.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai.

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

+1cc to Mr.B.R.Shankaralingam, Advocate, S.R.No.40126

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RV(CO)
GSP(12/07/2018)