

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.A.No.190 of 2007

D.Chandrasekar

... Appellant/Accused

vs

1. C.David Durai Raj

2. K.Lalitha

3.St.Mary's Teacher
Training Institute

... Respondents/Complainant

Prayer : Criminal Appeal filed under Section 378 of the Code of Criminal Procedure prays to call for the records and to set aside the Judgement dated 20.12.2006 in C.C.No.45 of 2003 by the learned Judicial Magistrate, Krishnagiri and thus render Justice.

For Appellant : Mr.E.Rajthilak for
Mr.R.Vivekananthan

For respondents : No Appearance

This Appeal has been filed to call for the records and to set aside the order dated 20.12.2006 passed in C.C.No.45 of 2003 by the learned Judicial Magistrate, Krishnagiri.

2.The appeal has been filed against the complaint filed under Section 138 of the Negotiable Instruments Act, in C.C.No.45 of 2003, which was dismissed for default on 20.12.2006, on the ground that, the appellant, who is the complainant, has not appeared before the Court below in spite of several adjournments. As against the order of dismissal, the appellant filed the present appeal.

3.This Court, while admitting the appeal, ordered notice and private notice on 23.02.2007 and again on 18.12.2017 to the respondents.

4.The Hon'ble Apex Court, categorically held that if the complaint has been filed, the same should be disposed of only on merits irrespective of the appearance of the complainant or the accused.

5.In this case, the learned Judicial Magistrate, Krishnagiri simply dismissed the case on the ground that the appellant/complainant has not appeared before the Court. Therefore, the order dated 20.12.2006 passed in C.C.No.45 of 2003 is set aside and remanded back to the learned Judicial Magistrate, Krishnagiri.

The Criminal Appeal is disposed of accordingly. The learned Judicial Magistrate, Krishnagiri is directed to dispose of the complaint filed in C.C.No.45 of 2003 by serving notice to both parties within a period of two months from the date of receipt of a copy of this order. After passing the order in the said complaint, the learned Judicial Magistrate is directed to intimate the same to this Court by way of report within ten days from the date of the order.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

vum/cia

To

The Judicial Magistrate,
Krishnagiri.

Copy TO

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

PA (CO)
GN (09/04/2018)

Cr1.A.No.190 of 2007