

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.820 of 2018

Subramanian

... Petitioner

Vs.

Bappy

... Respondent

PRAYER : The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed by the learned Judicial Magistrate, Perambalur in S.T.C.No.908 of 2012 dated 19.06.2018 and restore the same.

For Petitioner : Mrs.C.Sangamithirai

For Respondent : Mr.P.Mani

ORDER

The present revision case has been filed against the order passed by the learned Judicial Magistrate, Perambalur, dated 19.06.2018 in S.T.C.No.908 of 2012, dismissing the complaint for default.

2. The learned Judicial Magistrate, while dismissing the complaint, had reasoned that sufficient time and opportunity was given to the complainant to take steps for process. Since that was not utilized by the complainant, the complaint was dismissed for default.

3. The learned counsel for the petitioner would submit that on a particular day, when the order was passed, he was not present, but, the petitioner was present. Due to his old age, there was no effective representation. Because of this, the complaint came to be dismissed.

4. The learned counsel for the petitioner would also plead that one more opportunity to be given to the

petitioner/complainant to pursue the complaint before the Trial Court.

5. At this, the learned counsel for the respondent would submit that once the complaint has been dismissed, the same need not be restored, since the petitioner/complainant did not utilize the opportunity provided to him for taking process on the respondent/accused.

6. This Court is unable to appreciate the arguments advanced on behalf of the respondent as to how the complaint could not be restored when sufficient reason has been stated on behalf of the petitioner/complainant for restoration of the complaint. Accepting the contention of the learned counsel for the petitioner, the order passed by the learned Magistrate, Perambalur in S.T.C.No.908 of 2012, dated 19.06.2018, is hereby set aside and the Trial Court is directed to restore the complaint on file and proceed with the complaint as per law.

7. The criminal revision case is allowed on the above terms.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsk

To

The Judicial Magistrate,  
Perambalur.

+1 cc to Mr.P.Mani, Advocate Sr.No.81015

+1 cc to M/s.C.Sangamithirai, Advocate Sr.No.80689

Cr1.R.C.No.820 of 2018

MG (CO)

CSL/28.12.2018

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