

Bail Slip

The Petitioner/Accused Viz., Sadiq Ali, is directed to be released on bail as per order of this court dated 5.01.2012 in MP.1/12 in CrI.R.C.No.22/2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CrI. Revision Case No.22 of 2012

Sadiq Ali

Prop. Of Sadiq Ali Industries,
D.No.107, Market Street,
Gugai, Salem-6.

..Petitioner/Appellant/Accused

v

Amirtharaj

..Respondent/Respondent
Complainant

Prayer : Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to set aside the order dated 20.07.2011 passed by the Additional Sessions Judge/Special Judge (For EC cases) Salem in C.A.No.118 of 2009 in S.T.R.No.638 of 2007 and to restore the same.

For Petitioner : M/s.S.Haja Mohideen Gisthi

For respondent : Mr.N.Baskar
Legal Aid Counsel

ORDER

This revision has been filed to set aside the order passed by the Additional Sessions Judge/Special Judge (For EC cases) Salem in C.A.No.118 of 2009 in S.T.R.No.638 of 2007 dated 20.07.2011.

2. After numbering the appeal, the learned counsel for the appellant and his counsel are not appeared before the appellate Court. Hence the appeal was dismissed for default.

3. Time and again, this Court and the Hon'ble Apex Court very categorically held that the appeal should not be dismissed merely, because of non-appearance of the parties, but the appellate court has to pass a detailed speaking order. But in this case, it is totally lapsed. The learned Judge has passed an order dated 20.07.20107 which reads as follows:

"Appellant not present. No representation for appellant. Appellant called absent. Appeal is dismissed for default."

4. Therefore, for giving one more opportunity to the petitioner/appellant in the appeal in C.A.No.118 of 2009, the impugned order dated 20.07.2011 made in C.A.No.118 of 2009 is liable to be set aside and the same should be remanded back to the Court below viz., The District and Sessions Judge, Salem for fresh disposal in accordance with law.

5. In view of the above, this Court is inclined to pass the following orders:

i) The Criminal Revision is allowed and the impugned order in C.A.No.118 of 2009 on the file of the District and Sessions Judge, Salem dated 20.07.2011 is set aside and the case is remanded to the said Court for fresh disposal by giving fair opportunities to both the parties.

ii) The learned District and Sessions Judge, Salem, is directed to dispose of the appeal on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

iii) The personal appearance of the petitioner/appellant herein in C.A.No.118 of 2009 is dispensed with, before the appellate Court except on the date of Judgment of the appeal.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kkd

To

1. The District and Sessions Judge, Salem.
2. The Additional Sessions Judge/Special Judge
(For EC cases) Salem.
3. The Judicial Magistrate-III, Salem.
4. The Chief Judicial Magistrate, Salem.
5. The Section Officer, Criminal Section,
High Court, Madras.

+ 1 cc to MR.S. Haja Mohideen Gisthi, Advocate Sr.16905

CRL.R.C.No.22 of 2012

CA(CO)
EU(16/04/2018)