

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.32 of 2019

R.Nagarajan ... Petitioner/Complainant

-Vs-

S.Mohankumar ... Respondent/Accused

This Criminal Revision Petition is filed under Sections 397 and 401 of Cr.P.C., praying to set aside the order dated 27.11.2018 passed in C.C.No.303 of 2016 on the file of the Judicial Magistrate Court No.1, Mettur, Salem.

For Petitioner : Mr.R.Murugabharathi

For Respondent : Mr.M.Elango

O R D E R

The present Criminal Revision Case has been filed to to set aside the order dated 27.11.2018 passed in C.C.No.303 of 2016 on the file of the Judicial Magistrate Court No.1, Mettur, Salem.

2. The petitioner herein filed a private complaint under Section 200 Cr.P.C., before the Judicial Magistrate Court No.1, Mettur, for offence under Section 138 of Negotiable Instruments Act. Subsequently, after taking cognizance of the offence, the matter was posted for examination and cross-examination of PW-1, but, the PW-1 complainant did not appear before the Court. Therefore, the learned Judicial Magistrate No.1, Mettur, dismissed the complaint under Section 256 Cr.P.C., for non appearance. Hence, the petitioner/complainant has preferred the present revision.

3. The learned counsel for the petitioner submitted that due to non appearance, the learned Judicial Magistrate No.1, Mettur dismissed the complaint.

4. The learned counsel for the respondent submitted that no reason given for his non appearance and also for filing this Revision.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On a reading of the order reveals that the learned Magistrate dismissed the complaint only on the ground of non appearance and the learned Magistrate had not discussed the merits of the complaint with the available documents.

7. Admittedly, the complaint has been dismissed for non appearance and hence, no records are available to dispose this revision on merits. The petitioner filed the complaint before the learned Judicial Magistrate No.1, Mettur, as early as 29.11.2016 but, the dismissal order has been passed only on 27.11.2018 i.e., nearly after two years. The petitioner has not stated any reason as to why the petitioner's complaint was pending for more than two years. Further, the records reveal that the complainant entered into witness box and completed the chief-examination, but on the day of cross-examination, he has not appeared either in person or through his counsel.

8. Though, this Court finds that no perversity in the impugned order, an opportunity may be given to the complainant to proceed the case further. Hence, This Court is inclined to set aside the order dated 27.11.2018 passed by the learned Judicial Magistrate No.1, Mettur in C.C.No.303 of 2016 subject to the condition that the petitioner herein /complainant shall pay a sum of Rs.50,000/- to the respondent towards cost for the inconvenience caused to him for two years and produce the receipt before the learned Judicial Magistrate No.1, Mettur on or before 08.03.2019. On production of the payment receipt, the learned Judicial Magistrate No.1, Mettur is directed to proceed the complaint in accordance with law. Since the matter is pending from the year 2016, the learned Magistrate is directed to dispose of the case within a period of six months from the date of receipt of a copy of this order. The petitioner herein/complainant and the respondent herein/accused are directed to extend their fullest co-operation to enable the

concerned Magistrate to complete the enquiry within a period of six months from the date of receipt of a copy of this order.

9. This Criminal Revision Case is allowed accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

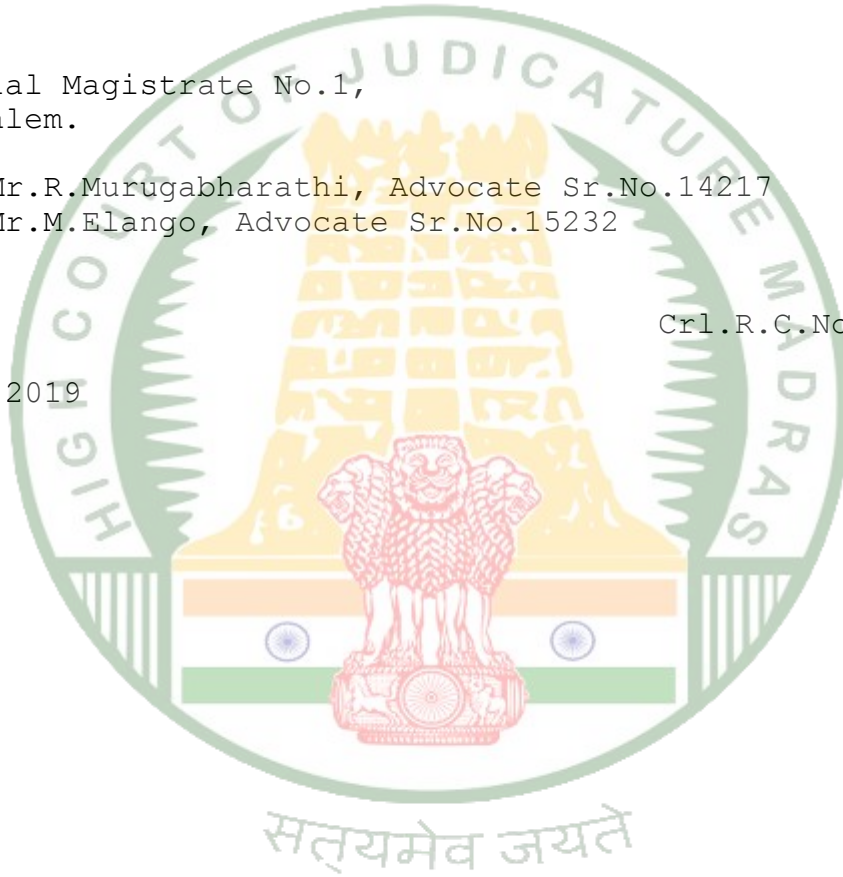
The Judicial Magistrate No.1,
Mettur, Salem.

+1 cc to Mr.R.Murugabharathi, Advocate Sr.No.14217

+1 cc to Mr.M.Elango, Advocate Sr.No.15232

Crl.R.C.No.32 of 2019

KJ(CO)
CSL/15.03.2019



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