

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Appeal No.100 of 2012

V.R.Parameswaran,
D.No.B-10, Police Quarters,
Uppilpalayam,
Coimbatore.

... Appellant/Complainant

/versus/

M.Murugan,
S/o.Manickam,
Proprietor, Kongu Laminates,
No.132, RVN Lay Out, New Siddhapudur,
Coimbatore-641 044.

... Respondent/Accused

Prayer:- Criminal Appeal is filed under Section 378 of Criminal Procedure Code, against the order of dismissing the complaint dated 02.11.2011 made in STC No.3884 of 2006 on the file of Judicial Magistrate No.VII, Coimbatore and pray to set aside the same.

For Appellant : No appearance

For Respondent : No appearance

J U D G M E N T

No representation for the Appellant. When the matter was listed on 18.01.2018, the learned Counsel for the Appellant was permitted to take fresh notice to the respondents returnable by two weeks but till date, the appellant has not taken any steps to serve notice on the respondent in spite of permitting him to take private notice.

2. The perusal of the appeal indicates that the Appellant herein who is the complainant in STC.No.3884 of 2006 on the file of Judicial Magistrate No.7, Coimbatore, fail to attend the Court on the dates of hearing. Therefore, his complaint under Section 138 of Negotiable Instrument Act was dismissed and the accused/respondent herein was acquitted under Section 256 of Cr.P.C

3. Aggrieved by that, the present appeal is filed, on the ground that the complainant/appellant herein was not able to appear before the Court on 02.11.2011 to peruse his private complaint due to viral fever. Therefore, the learned Judicial Magistrate instead of considering the fact that Non Bailable Warrant against the accused was pending for more than 5 years and had dismissed the complaint without giving an opportunity to the complainant to be present and take further course of action. The learned Judicial Magistrate has dismissed the complaint only after recording the reason and the said reason does not appears to be unjust. While, the Appellant pleads that his absence was due to viral fever, the said reason is not supported by any medical report. Furthermore, even after preferring the appeal and being pending for more than 6 years, the appellant has not taken any steps to serve notice on the respondent.

4. In the said circumstances, this Court finds no reason to keep the appeal pending any further on the board.

5. In the result, the Criminal Appeal deserves to be dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.VII, Coimbatore.
2. The Section Officer, Criminal Section, High Court, Madras.

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