IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 11.11.2019
CORAM
THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.Nos.1576 and 1577 of 2012

M/s.Clifton Trends Pvt. Ltd.,
Rep. by its Managing Director N.Jayaprabha,
No.8/328, Uppilipalayam, Arulpuram Post,
Palladam Road, Tirupur-5.
Complainant rep. by Power of Attorney/Manager
S.M.Senthilkumar,
S/o.Munisamy, aged about 28 years
M/s.Clifton Trends Pvt. Ltd. .. Petitioner/
De facto complainant
in both revisions

Vs

Abdul Naseer,
Proprietor,
M/s.Excel Collection,
No.181/3, Near ARRS Multiplex Theatre,
Meyyanoor Byepass Road,
Salem.
.. Respondent/
Accused
in both revisions

Crl.R.C.No.1576 of 2012 preferred under Section 397 and 401 Cr.P.C. to set aside the order dated 11.06.2012 passed by the Judicial Magistrate No.I, Tirupur in Crl.M.P.No.2160 of 2012 in CC.Sr.No.3567 of 2012

Crl.R.C.No.1577 of 2012 preferred under Section 397 and 401 Cr.P.C. to set aside the order dated 11.06.2012 passed by the Judicial Magistrate No.I, Tirupur in Crl.M.P.No.2161 of 2012 in CC.Sr.3575/2012.

For Petitioner : Mr.K.Maheshwaran
For Respondent : Mr.N.A.Nissar Ahmed

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C O M M O N O R D E R

In view of commonality of issue involved, these criminal revisions are considered and decided by this common order.

2.For the sake of convenience, the petitioner and the respondent will be referred to as complainant and accused respectively.

3.The complainant initiated two prosecutions under Section 138 of the Negotiable Instruments Act, 1881 before the Judicial Magistrate No.I, Tirupur, each with a delay of 12 days, to condone which, he filed C.M.P.Nos.2160 and 2161 of 2012. For the failure of the complainant to appear before the trial Court, both the said petitions were dismissed for default on 11.06.2012 by two separate orders, aggrieved by which, the complainant is before this Court.

3.Heard the learned counsel for the complainant and the accused.

4.Learned counsel for the accused submitted that the complainant has not made out a prima facie case in the affidavit filed by him in support of the petitions, for condonation of delay.

5.In the opinion of this Court, C.M.P.Nos.2160 and 2161 of 2012 have been dismissed by the trial Court, for default and not on merits and therefore, this Court does not want to go into the merits of the matter.

6.Learned counsel for the complainant submitted that the counsel for the complainant before the trial Court, suffered prolonged illness and that was the reason, for he not appearing before the trial Court.

7.In view of the above submission made by the learned counsel for the complainant, this Court is of the view that interests of justice will be served, if both parties are given a fair opportunity to contest the matter on merits.

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Accordingly, these criminal revisions are allowed and the orders dated 11.06.2012 passed by the Judicial Magistrate No.I, Tirupur in C.M.P.Nos.2160 and 2161 of 2012 are hereby set aside and the matters are remanded to the trial Court, for a decision on merits. The complainant and the accused shall appear before the trial Court on 20.12.2019 at 10.30 a.m. The Registry is

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directed to transmit the original records, if any, to the Court concerned forthwith.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gya

To
1.The Judicial Magistrate Court No.I,
Tirupur.

2.The Deputy Registrar,
Criminal Side,
High Court, Madras.

+1 cc to Mr.N.A.Nissar Ahmed advocate sr93824
+1 cc to Mr.K.Maheswaran Advocate sr93566
+1 cc to Mr.K.Maheswaran Advocate sr93565 dt 13/11/2019

CRL.R.C.Nos.1576 & 1577 of 2012

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