

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.R.C.No.297 of 2018

V.Sundaramoorthy

...Petitioner/Complainant

Vs.

M.Sahadevan

...Respondent/Accused

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, against the judgment dated 27.12.2016 made in S.T.C.No.289 of 2016 on the file of the learned Judicial Magistrate No.1, Athur acquitting the accused under Section 204(4) Cr.P.C. For the offence under Section 138 & 142 of Negotiable Instrument Act and 200 Cr.P.C.

For Petitioner : Mr.P.Anbalagan

For Respondent : Dr.R.Sambathkumar

O R D E R

This Criminal Revision has been filed against the judgment dated 27.12.2016 made in S.T.C.No.289 of 2016 on the file of the learned Judicial Magistrate No.1, Athur.

2. The revision petitioner is the complainant and the respondent is the accused. The revision petitioner has filed a private complaint under Section 200 Cr.P.C. before the learned Judicial Magistrate-I, Athur and the same was taken on file in S.T.C.No.289 of 2016. The learned Magistrate served summons to the respondent for his appearance before the Court. During the pendency of the trial, non appeared on behalf of the respondent/accused, on 29.07.2016, the learned Magistrate has issued a bailable warrant to him. Subsequently, the respondent/accused did not take any steps to execute the bailable warrant. When the matter was called before the learned Magistrate for several hearings, the revision petitioner did not appear before the Court and there was no representation on behalf of the respondent. Therefore, the bailable warrant was pending as against the respondent issued by the Court. Since, the petitioner has not taken any steps to pay the process for executing bailable warrant issued against the respondent/accused, the complaint was dismissed by the learned Judicial Magistrate-I, Athur. Against the order of the learned Magistrate in S.T.C.No.289 of 2016 dated 27.12.2016, the

petitioner has preferred the present revision before this Court.

3. The learned counsel for the petitioner would submit that before dismissing the complaint, the Magistrate did not issue the final notice to the revision petitioner. The revision petitioner has appeared before the trial Court regularly and also the learned Magistrate has not considered the Bailable Warrant pending against the accused, without assigning any reason, the learned Magistrate has simply dismissed the complaint and acquitted the accused. Hence, the order passed by the learned Magistrate warrants interference.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. On a perusal of the records, it could be seen that the petitioner has appeared before the Court regularly and the respondent has not appeared before the Court and bailable warrant was pending against the respondent. By considering the non co-operation and non-paying the batta by the complainant was dismissed the complaint under Section 204(4) of Cr.P.C. Since the petitioner and the respondent have not taken any effective steps to proceed with the case further. Therefore, the revision petitioner is directed to pay a sum of Rs.25,000/- before the Taluk Legal Services Committee, Athur on or before 25.04.2019 failing which the revision petitioner is not entitled to proceed the complaint. On filing the memo with the payment of receipt, the learned Magistrate is directed to proceed with the complaint further in S.T.C.No.289 of 2016, if he deposits the cost, dispose the matter in accordance with law.

6. With the above directions, this Criminal Revision is disposed of.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.1,
Athur.

2.-do- Thro' Chief Judicial Magistrate,
Salem.

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3.The Secretary,
The Legal Service committee,
Athur.

+lcc to Mr.P.Anbalagan, Advocate, S.R.No.32854

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RR(CO)

RRS (23/04/2019)



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