



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.08.2019
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A. (MD)No.135 of 2013

Popular V.Muthaiah

... Appellant/Complainant

Vs.

A.Jebasundari

... Respondent/Accused

Prayer: Criminal Appeals filed under Section 378 of Cr.P.C, to set aside the order of the learned Judicial Magistrate No.I, Tirunelveli, made in S.T.C.No.1573 of 2005, dated 28.10.2009, allow the appeal and convict the respondent in accordance with law.

For Appellant : Mr.D.Balamurugapandi

For Respondent : Mr.A.N.Ramanathan

J U D G M E N T

The appellant is the complainant. It is a case arising under Section 138 of Negotiable Instruments Act. The complainant was absent on 28.10.2009. Therefore, the Court below dismissed the complaint for non prosecution and consequently acquitted the accused. Challenging the same, this criminal appeal has been filed.

2.Heard the learned counsel on either side.

3.I am of the view that the learned Trial Magistrate could have been given one more opportunity to the complainant. It is all the more so, because on the said date the accused was also absent. It is not as if, if the complainant had been present on the said date, the case could have progressed. In view of the absence of the accused, the case could not have been progressed on the said date. It is also seen that the cheque amount is for more than Rs.7,00,000/-. Therefore, interest of justice is required that the appellant is given one more opportunity to pursue the matter. In this view of the matter, the order impugned in the criminal appeal is set aside and the criminal appeal is allowed. S.T.C.No.1573 of 2005 is restored to the file of learned Judicial Magistrate No.I,



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Tirunelveli. Since the matter is an old one, the parties are directed to extend their fullest cooperation for speedy disposal of the case.

Sd/-

Assistant Registrar (Cr1. Side)

WEB COPY

/TRUE COPY/

Sub Assistant Registrar

To:

The Judicial Magistrate No.I,
Tirunelveli.

COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION (RECORDS),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
(2 COPIES)

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-80958[F] dated
09/08/2019)

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08.08.2019

IAS

JM/10.09.2019/2P/5C