

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.29735 of 2019
and
Crl.M.P.No.16033 of 2019

Kandhasamy,
S/o.Irulappan,
No.2/22, Periya Kiluvachi,
Parauthikanmai Post,
Kalaiyarkoil Taluk,
Sivagangai District. ... Petitioner

-Vs-

Ramesh,
S/o.Govindhasamy,
Proprietor,
R.G.Apset Printers,
No.88, 60 Feet Road,
J.G.Nagar,
Tiruppur. ... Respondent

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the record and set aside the order passed in Crl.M.P.No.377 of 2019 in Crl.A.No.90 of 2018 dated 12.09.2019 on the file of the Principal Sessions Judge, Tiruppur.

For Petitioner : Mr.S.Doraisamy

For Respondent : No appearance

ORDER

This Petition has been filed to challenge the order passed in Crl.M.P.No.377 of 2019 in Crl.A.No.90 of 2018 dated 12.09.2019 on the file of the learned Principal Sessions Judge, Tiruppur thereby dismissing the application filed by the petitioner under Section 391 of Cr.P.C.

2. The petitioner is the defacto complainant and he filed complaint under Section 138 of Negotiable Instruments Act in STC.No.4739 of 2010 on the file of the Judicial Magistrate No.I, Tiruppur and which was ended in acquittal. Aggrieved by the same, the petitioner filed an appeal in Crl.A.No.902 of 2018 and the same is

pending on the file of the Principal Sessions Judge, Tiruppur. While pending the appeal, the petitioner filed petition in Crl.M.P.No.377 of 2019 under Section 391 of Cr.P.C to mark the vital document in FIR in Crime No.464 of 2007 registered as against the petitioner on the complaint lodged by the respondent herein. Unfortunately on the date of hearing namely 12.09.2019, the petitioner could not able to appear before the learned Principal Sessions Judge, Tiruppur and it was dismissed for default.

3. Considering the facts and circumstances of the case and the submission made by the learned counsel for the petitioner, the order passed by the learned Principal Sessions Judge, Tiruppur in Crl.M.P.No.377 of 2019 in Crl.A.No.90 of 2018 is set aside and the petitioner is directed to appear before the Appellate Court on the next hearing and the Appellate Court is directed to consider the petition filed by the petitioner herein in Crl.M.P.No.377 of 2019 in Crl.A.No.90 of 2018 on its own merits and in accordance with law and complete the proceedings within a period of four weeks from the date of receipt of a copy of this order.

4. This Criminal Original Petition is allowed with the above observations and directions. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

1. The Principal Sessions Judge,
Tiruppur.
2. The Public Prosecutor,
High Court, Madras.

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and
Crl.M.P.No.16033 of 2019

KS(CO)
CB(17/08/2020)