



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
02.08.2021

Date of Pronouncing Order
06.08.2021

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.972 of 2015

P. Srirangan

..Petitioner/Complainant

Vs.

P. Hemalatha

..Respondent/Accused

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate, Fast Track Court No.1, Erode dated 15.05.2015 (wrongly mentioned as 15.06.2015) in S.T.C.No.77 of 2014 by allowing this revision.

For Petitioner : Mr. Sadananthan
for Mr.M. Saravanakumar

For Respondent : No Appearance

O R D E R

The matter is heard through "Video Conference".

2. The learned counsel for the petitioner is present. The revision petitioner is the complainant before the learned Judicial Magistrate, Fast Track Court, No.I, Erode filed STC.No.77/2014, for the dishonor of cheque dated 05.06.2013 and presented on 27.06.2013. On 29.06.2013, the same has been returned with a reason "Funds Insufficient". So on 11.07.2013, petitioner issued a legal notice to the respondent in which he demanded to repay the cheque amount within 15 days from the date of receipt of the notice. The said notice was received by the respondent on 12.07.2013. Thereafter, she had not repaid the cheque amount as requested in the notice.



3. The petitioner filed a private complaint before the learned Judicial Magistrate, Fast Track Court, No.I, Erode alleging that the respondent committed the offence under Section 138 of Negotiable Instruments Act. After the conclusion of the trial, the learned Magistrate passed an order dated 15.05.2015, observing that since the complainant is absent for two consecutive hearing and process for the accused not paid and dismissed, the complainant. Aggrieved against the said order, the complainant has preferred the criminal revision case.

4. The learned counsel for the petitioner would contend that in view of the ratio laid down in the judgment reported in 2015(2)LW CrI.121, the matter has to be set aside. The learned counsel further contended that the order passed by the learned Magistrate is not a speaking order and further stated that since the advocate appointed by the private complainant has gone for M.L. Examination.

5. Heard the learned counsel for the petitioner. The private complaint filed by the revision petition in S.T.C.No.77/2014 was dismissed by the learned Judicial Magistrate, Fast Track Court-I, Erode, on the ground that the private complainant has not appeared for two consecutive hearings and also not paid process batta for the accused and hence on the third hearing, the same was dismissed, for non-appearance of complainant. The order was signed by the learned Judicial Magistrate on 15.05.2015, as could be seen from the certain copy of the order.

6. The learned counsel for the petitioner would contend that since the advocate on record was gone to write M.L. Examination, there was no representation on 14.05.2015. On 15.05.2015, the learned Judicial Magistrate had passed an order as stated supra.

7. Admittedly, the private complainant has not assigned any reason for the absence for two consecutive hearings and also on 15.05.2015. On the other hand, the learned counsel for the petitioner would contend that the order is not a Speaking Order under the Negotiable Instruments Act, the learned Magistrate is empowered to consider and pass order on the default of the appearance of the private complainant. Since the process is not paid for the accused and there was no representation for the 3 hearings by the complainant, the order passed by the learned Magistrate cannot be termed as perverse. Furthermore, even before this Court, no plausible explanation was offered for the absence of consecutive hearing and hence, I find that the order passed by the learned Magistrate does not warrant any interference.



8. Accordingly, the criminal revision case stands dismissed.

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Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Judicial Magistrate,
Fast Track Court No.1,
Erode.
2. The Section Officer,
Criminal Section
High Court, Madras.

+1cc to Mr.M.Saravana Kumar, Advocate, S.R.No.39228

Cr1.R.C.No.972 of 2015

RSI (CO)
RGA (31/08/2021)