



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.A.No.149 of 2021

1 C.RAMESH
S/O. G.CHANDRASEKARAN
NO.27/13 VALAMPURI VINAYAKAR KOVIL STREET
SALIGRAMAM CHENNAI -600 093. ...Appellant/Complainant

Vs

1 S.MUTHU
S/O. R.M. SOWRNAM AND S.KAMATCHI
NO.6B ALAGAPPAN STREET DHASARATAPURAM
SALIGRAMAM
CHENNAI - 600 093. ..Respondent/Accused

Prayer: Criminal Appeal filed under Section 378 (4) of Cr.P.C. to call for the records pertaining to the order of the learned XX Metropolitan Magistrate Court, Allikulam Complex, Chennai dated 07.02.2020 made in C.C.No.3130 of 2016 and set-aside the same and consequently restore the C.C.No.3130 of 2016 to the file of the learned XX Metropolitan Magistrate Court, Allikulam Complex, Chennai and to fix a time frame to dispose of the case as may be fixed by this Court.

For Petitioner : Mr.N.Ganesh
For Respondent : No appearance

ORDER

(The case has been heard through video conference)

The present criminal appeal has been preferred as against the order of dismissal, thereby dismissing the complaint filed under Sections 138 to 142 of the Negotiable Instruments Act in C.C.No.3130 of 2016 by an order dated 07.02.2020.

2.It is seen that the appellant is the complainant and the respondent is the accused. The complaint was lodged by the appellant under Sections 138 to 142 of the Negotiable Instruments Act. After lodging the complaint, notice was duly served on the respondent and for his non-appearance, a non-bailable warrant has been issued and the same was pending.



3. On 07.02.2020, the appellant was absent before the Trial Court and he also did not take steps to execute the non-bailable warrant which was pending against the respondent. Therefore, the Trial Court dismissed the complaint and acquitted the accused.

4. The learned counsel for the appellant would submit that the appellant is a landlord and the respondent is a tenant. After vacating the premises, whereabouts of the respondent is not known to the appellant and as such, he could not be able to execute the non-bailable warrant pending against the respondent.

5. This Court ordered notice to the respondent and private notice was also permitted. While the notice was sent by the appellant to the respondent, it was returned with an endorsement 'refused'. Therefore, this Court ordered paper publication and the same was also effected. Even then, no one was appeared before this Court on behalf of the respondent. It shows that the respondent is wantonly evading the service of notice.

6. Considering the above facts and circumstances of this case, the order passed by the learned XX Metropolitan Magistrate, Allikulam Complex, Chennai is set aside and the Trial Court is directed to restore the complaint in C.C.No.3130 of 2016, issue fresh notice to the address of the respondent as provided by the appellant herein and to dispose of C.C.No.3130 of 2016 within a period of six months from the date of receipt of a copy of this order.

7. In view of the above, this Criminal Appeal is allowed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

smv
To:

The XX Metropolitan Magistrate Court, Allikulam, Chennai.

Crl.A.No.149 of 2021

CP (CO)
LS (16/07/2021)