

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.240 of 2021

A.Divyanathan

... Petitioner

vs.

State Rep by
Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District.

... Respondent

PRAYER : Criminal Revision case is filed under Section 397 Cr.P.C read with Section 401 of the Criminal Procedure Code, to set aside the order passed by the Judicial Magistrate Court - II at Chengalpattu in Crl.M.P.No.2022 of 2020 filed under Section 156(3) of Cr.P.C., dated 20.01.2021.

For Petitioner : Ms.P.Uma

For Respondent : Mr.K.Mathan
Government Advocate

O R D E R

The present Criminal Revision case has been filed to set aside the order dated 20.01.2021 in Crl.M.P.No.2022 of 2020 passed by the Judicial Magistrate Court - II at Chengalpattu filed under Section 156(3) of Cr.P.C.

2. The petitioner is the complainant. He filed a complaint under Section 138 of the Negotiable Instrument Act, 1881, (hereinafter referred to as the 'Act' for short) before the learned Judicial Magistrate Court - II at Chengalpattu. The learned Magistrate dismissed the complaint filed under Section 156(3) of Cr.P.C. Challenging the said order, he filed the present revision case before this Court.

3. Learned counsel for the petitioner would submit that despite this Court given a direction to dispose the case, the Trial Court failed to consider and which was dismissed the same. The petitioner made a complaint before the

Respondent/Police, since the respondent has not registered the case as against the accused under Section 156(3). Since the petitioner has not appeared before the learned Magistrate and the Magistrate dismissed the complaint for non-appearance.

4. Learned counsel for the petitioner would submit that the petitioner approached this Court earlier and this Court by an order dated 30.11.2020 in CrI.O.P.No.18747 of 2020 has passed the following order:-

"4.The action taken by the petitioner under Section 156(3) Cr.P.C is pending on the file of the Judicial Magistrate Court No.II, Chengalpattu, in CrI.M.P.No.2022 of 2020. However, it is noted that the said complaint has not been disposed of by the Magistrate in accordance with law. The Magistrate, on taking the complaint on file, should take appropriate steps for the conclusion of the same in accordance with law and considering the reasons given in response to the RTI application preferred by the petitioner, it is found that the matter has been unnecessarily delayed for one reason or the other. In such a view of the matter, in the interest of justice and in my considered opinion, a suitable direction should be given to the Magistrate to conclude the enquiry in the complaint preferred by the petitioner under Section 156(3) Cr.P.C in CrI.M.P.No.2022 of 2020.

5.Resultantly, the Judicial Magistrate No.II, Chengalpattu, is directed to conclude the enquiry and dispose of the complaint preferred by the petitioner under Section 156(3) Cr.P.C in CrI.M.P.No.2022 of 2020 within four weeks from the date of receipt of a copy of this order in accordance with the procedures established under law."

5. Learned counsel for the petitioner would submit that the learned Magistrate has not listed the case. Even without listing the case, the learned Magistrate dismissed the petition.

6. When the matter came up for hearing on 27.04.2021, this Court called for the order of adjudication and entries in the diary. Learned Magistrate sent the extract of the adjudication order and also the diary.

7. A reading of the order of adjudication which shows that the petitioner did not appear before the Trial Court except one or two hearings for the last one year and the Magistrate given several opportunities, despite serving the final notice, the petitioner did not turn. Neither the petitioner nor the counsel appeared before the Court below, the Learned Magistrate issued a

final notice on 22.10.2020 and even lastly on 05.01.2021, the Learned Magistrate found that the petitioner called absent and for his appearance finally the matter was posted on 21.01.2021, failing which, the adverse order will be passed and despite that on 21.01.2021, the petitioner again did not appear before the Magistrate and he was called absent. Since he was served final notice and all the posting days duly mentioned in the adjudication order and entries in the diary and that the petitioner failed to follow and even after receiving the final notice, he had not appeared before the Magistrate. Therefore, the learned counsel for the petitioner suppressing all the facts, stating that the case was not listed on the date of passing of the order. Therefore, the aforesaid contentions of the petitioner is not correct. The petitioner has not approached this Court with clean hands. He is a chronic defaulter and he has not appeared before the learned Magistrate. Even, the learned Magistrate after giving sufficient opportunity and issuing final notice, dismissed the complaint made by the Petitioner. Therefore, this Court does not find any merit in the case and the same is liable to be dismissed.

8. Accordingly, the criminal revision case is dismissed. No cost.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

dm

To

1.The Judicial Magistrate Court -II,
Chengalpattu.

2.-Do- Through the Chief Judicial Magistrate,
Kancheepuram.

3.The Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District.

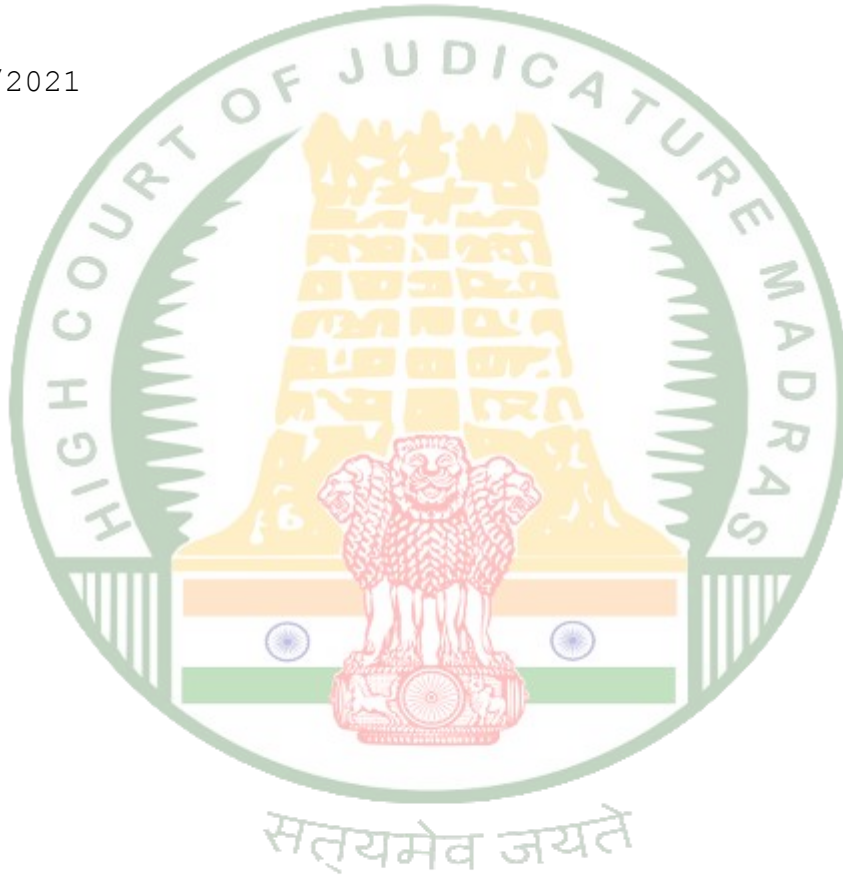
4.The Public Prosecutor,
High Court, Madras.

Copy to

The Sub Assistant Registrar,
Criminal Section,
High Court, Madras.

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