



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 28.06.2021)

(Pronounced on : 23.09.2021)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.639 of 2017

Vaithi Subramanian

....Petitioner

.. Vs ..

V.Narayanansamy

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., against the order passed by the Fast Track Court No.III, Metropolitan Magistrate, Saidapet, Chennai 600 015 in C.C.No.12308 of 2010 dated 24.01.2017.

For petitioner : Mr.T.Vijayaraghavan

For Respondent : Mr.S.Anand

O R D E R

The private complainant is the revision petitioner herein.

2. The private complainant filed C.C.No.12308 of 2010 before the learned Fast Track No.III, Metropolitan Magistrate, Saidapet, Chennai for alleged offence under Section 138 of Negotiable Instruments Act by way of private complaint under Section 200 of Cr.P.C. The said petition was dismissed for non prosecution under Section 256 Cr.P.C and hence the revision.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. On perusal, it is seen that the complainant was absent and there was no representation. On earlier two occasions, namely 10.11.2016 and 23.01.2017, it appears that there was no representation and therefore the learned Magistrate seems to have passed an conditional order for the appearance of the complainant. Even on the date namely 24.01.2017, since the complainant was absent, the case was dismissed for non prosecution under Section 506 Cr.P.C.



5. The learned counsel for the petitioner relied upon the decision of this Court reported in 2017 (1) L.W (Crl.) 237 [Saritha Mittal Proprietrix, M/s. Vishnu Ispat Udyog Rep.by Power of Attorney Vs.K.Jayabal] and in the case of Crl.R.C.No.812 of 2017 [S.B.Photo Lab Needs Private Limited, Represented by its Manager, Mr.G.Venkataraman Vs.Mr.Shah] wherein, this Court has taken view that final notice to be issued to the private complainant before dismissing the complaint for non-prosecution. Admittedly, no final notice has been issued in this case.

6. For the absence of the complainant for the 3 hearings, it appears that the Magistrate has dismissed the complaint without going into the merits and hence I am inclined to allow the revision petition to give an opportunity for the complainant to prosecute the case.

7. Proof affidavit is already filed. The order dated 24.01.2017 is set aside. C.C.No.12308 of 2010 is ordered to be restored to file and the learned Magistrate is required to dispose of the same on merits within a period of 16 weeks from the date of receipt of a copy of this order. There shall be an order of costs of Rs.3,000/- payable to the District Legal Services Authority, Chennai by the revision petitioner within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Revision petition is allowed.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

nvi

To

1. The Metropolitan Magistrate,
(Fast Track Court No.III),
Saidapet, Chennai-15.
2. The Section Officer,
VR Section, High Court, Madras.



Copy To

The Presiding Officer,
District Legal Services Authority,
Chennai.

+1cc to Mr.T.Vijayaraghavan, Advocate SR.No.49395

Cr1.R.C.No.639 of 2017

GPL (CO)
GMY (27/10/2021)