



Crl.RC.No.195 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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P.C.Viswanathan ... Petitioner /complainant

Versus

P.T.Sivasubramaniam ... Respondent/accused

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of the Code of Criminal Procedure to set aside the judgment dated 31.07.2017 passed in Crl.A.No.131 of 2017 on the file of the learned Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode confirming the order passed in CC.No.80 of 2005 dated 11.04.2016 on the file of the learned Judicial Magistrate No.II, Erode and to allow the above criminal revision petition.

For Petitioner : Mr.V.Regunathan

For Respondent : No appearance
(not ready in notice)



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ORDER

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This criminal revision is filed against the judgment dated 31.07.2017 passed in Crl.A.No.131 of 2017 on the file of the learned Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode, thereby confirming the judgment passed in CC.No.80 of 2005 dated 11.04.2016 on the file of the learned Judicial Magistrate No.II, Erode, thereby dismissed the complaint filed for the offence punishable under Section 138 of NI Act as against the respondent.

2. The petitioner is the complainant and he lodged complaint for the offence punishable under Section 138 of NI Act as against the respondent. After receipt of notice, the respondent did not appear before the trial court. Therefore, the trial court issued bailable warrant and it was pending. At the time of pending the same, the petitioner failed to appear before the trial court on so many hearings. Therefore, the trial court dismissed the complaint for default. Aggrieved by the same, the petitioner preferred appeal and the same was also dismissed and confirmed the order passed by the trial court, against which the present criminal revision has



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been filed.

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3. Heard, the learned counsel for the petitioner. Though notice was served on the respondent, no one is present before this Court on behalf of the respondent in person or through pleader.

4. On perusal of records, revealed that the respondent received notice and failed to appear before the trial court. Therefore, the trial court issued bailable warrant and it is pending. At the time of pending bailable warrant, the petitioner was absent before the trial court.

5. Considering the facts and circumstances of the case, this Court is of the view that the petitioner may be given one more opportunity to proceed with the complaint. Accordingly, the judgment dated 31.07.2017 passed in Crl.A.No.131 of 2017 on the file of the learned Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode confirming the order passed in CC.No.80 of 2005 dated 11.04.2016 on the file of the learned Judicial Magistrate No.II, Erode is set aside. The trial



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court is directed to issue fresh summons to the respondent and proceed with the complaint under Section 138 of NI Act.

6. In the result, this criminal revision stands allowed.

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Internet:Yes
Index:Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J,

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To

- 1.The learned Additional Sessions Judge,
Magalir Neethi Mandram (Fast Track Mahila Court),
Erode
- 2.The learned Judicial Magistrate No.II,
Erode

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