



Crl.R.C.No.1131 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1131 of 2022

R.Ranganathan

...Petitioner

..VS..

V.Krishnamoorthy

... Respondent

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C to set aside the order dated 29.07.2019 passed in S.T.C.No.40 of 2016 by the learned Judicial Magistrate No.III, Puducherry.

For Petitioner : Mr.R.Thanjan

For Respondent : No appearance

ORDER

This revision case has been preferred challenging the order dated 29.07.2019 passed in S.T.C.No.40 of 2016 by the learned Judicial Magistrate No.III, Puducherry.



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2. The petitioner has filed a private complaint against the respondent/accused for the offence under Sections 138 and 142 of the Negotiable Instruments Act, 1881 before the learned Judicial Magistrate No.III, Puducherry in S.T.C.No.40 of 2016. The said petition was dismissed under Section 204(4) of Cr.P.C for non-payment of process fee and non-appearance of the complainant. Aggrieved by the same, the petitioner has preferred the present revision.

3. The learned counsel for the petitioner submitted that due to unavoidable circumstances, the petitioner was not able to appear before the Court and participate in the proceedings in one or two hearings, The learned counsel further submitted that except the aforementioned one or two hearings, the petitioner was regularly appears before the Court below for all hearings. However, the Court below without giving opportunity to the petitioner dismissed the case, which warrants inference of this Court.



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4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Though notice was served on the respondent, there is no representation on behalf of the respondent.

6. Admittedly, the petitioner filed a private complaint before the learned Magistrate under Section 138 of the Negotiable Instruments Act, 1881 and notice was served on the respondent/accused. Thereafter, the respondent appeared before the Court below for some hearings, later he did not appear therefore, the trial Court issued bailable warrant and also directed the petitioner to pay process fee to issue warrant. However, on 29.07.2019 the petitioner was not present before the Court below and process fees was also not paid and hence, the learned Magistrate dismissed the complaint.



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7. On a careful perusal of the records and the submissions made by the learned counsel for the petitioner, this Court does not find any reason to set aside the order of the learned Magistrate, however, in order to give opportunity to the petitioner, the order passed by the learned Judicial Magistrate No.III, Puducherry in S.T.C.No.40 of 2016 dated 29.07.2019 is hereby set aside. The learned Judicial Magistrate No.III, Puducherry is directed to restore S.T.C.No.40 of 2016 and proceed with the complaint on merits and in accordance with law. The petitioner is directed to appear before the Court below on 02.11.2022 and to pay process fee to issue warrant.

8. With the above directions, this Criminal Revision Case is allowed.

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Index: Yes/No
Speaking Order/Non-Speaking Order
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To
The Judicial Magistrate No.III,
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