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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.A. No.695 of 2022

M/s.K.K.Granitile Marketing
Rep. by its Proprietor
Mr.Gaurav Rajmal Tated
S/o.Rajmal Gomchand Tated
Aged about 37 years
No15/16, Devangapet Street No.2
Near Flower Market
Shivan Temple Adjacent Lane
Coimbatore - 641 001

Rep. by its Special Power of Attorney Holder
Mr.Rajmal Gomchand Tated
S/o.Gomchand Tated
Aged about 60 years
D.No.199-2, Ward No.47
Sukrawarpet, Coimbatore - 641 001 .. Appellant

Vs

1.M/s.N.S.R.Tiles and Granites
Rep. by its Proprietor
Smt.Sudha
W/o.Suresh Kumar
No.8/1702E, Thiru Nagar
Sadhasivam Avenue
P.N.Road, Near Reliance Petrol Bunk
Pooluvappatti Post
Tiruppur - 641 602

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2.Smt.Sudha
W/o.Suresh Kumar
Proprietor
M/s.N.S.R.Tiles and Granites
No.8/1702E, Thiru Nagar
Sadhasivam Avenue
P.N.Road, Near Reliance Petrol Bunk
Pooluvappatti Post
Tiruppur - 641 602 .. Respondents

* * *

Prayer: Criminal Appeal filed under Section 378(4) of the Criminal Procedure Code to set aside the order of acquittal dated 07.01.2020 made in C.C. No.26 of 2020 on the file of the learned Judicial Magistrate Fast Track Court No.1 @ Magisterial Level, Coimbatore.

* * *

For Appellant : Mr.S.Suresh

For Respondents : No Appearance

JUDGMENT

This appeal arising out of the dismissal of the private complaint under Section 200 of the Criminal Procedure Code. Though notice was served to the respondents, none appears for respondents.

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2. Learned counsel appearing for the appellant would submit that when he filed a private complaint before the learned Judicial Magistrate Fast Track Court No.1 @ Magisterial Level, Coimbatore under Section 200 Cr.P.C in C.C. No.26 of 2020 for an offence under Section 138 of the Negotiable Instruments Act, 1881, on one of the hearing dates, the complainant could not appear and therefore, the learned Magistrate dismissed the complaint under Section 256 Cr.P.C. Before passing the dismissal order, the learned trial Judge did not give an opportunity or she has not sent a final notice before dismissing the complaint. Therefore, the order of the trial Judge warrants interference.

3. Heard the learned counsel for the appellant and perused the materials available on record.

4. None appears on behalf of the respondents, despite notice was served and the name was printed. A perusal of the record shows that the complaint was dismissed for non appearance of the complainant, but not dismissed on merits. Therefore, considering the facts and circumstances of the case, the order passed by the learned Magistrate is set aside and the appeal is allowed and the appellant is directed to appear before the learned Judicial

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Magistrate Fast Track Court No.1 @ Magisterial Level, Coimbatore, on 31.10.2022 and proceed further in accordance with Law. The complainant is also directed to file his proof affidavit on that date and proceed further. The learned trial Judge is directed to proceed with the complaint in accordance with Law and directed to complete the proceedings and dispose of the complaint, within a period of six months from the date of receipt of a copy of this judgment.

11.10.2022

Index : Yes/No
Internet : Yes
Asr

To

The Judicial Magistrate Fast Track Court No.1 @ Magisterial Level,
Coimbatore

Note to office:

Issue Judgment copy on
12.10.2022.

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P.VELMURUGAN, J.

Asr

Crl.A. No.695 of 2022

Dated : 11.10.2022