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Crl.R.C.No.1465 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1465 of 2022
and
Crl.M.P.Nos.16573 and 16575 of 2022

Ananthan

... Petitioner

Versus

The State Rep.by
Inspector of Police,
Cuddalore N.T.Police Station,
Crime No.243 of 2018.

... Respondent

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to set aside the judgment dated 20.06.2022 in Crl.Appeal No.32 of 2021 passed by the Court of Sessions, Cuddalore Division, Cuddalore District (Principal Judge) Cuddalore as against C.C.No.492 of 2019 passed by the learned Chief Judicial Magistrate, Cuddalore on 17.08.2021 and provide one more opportunity for advancing arguments in Crl.A.No.32 of 2021.

For Petitioner : Mr.J.Hari Krishna

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



ORDER

This Criminal Revision Case has been preferred challenging the judgment dated 20.06.2022 passed in Crl.Appeal No.32 of 2021 passed by the learned Principal Sessions Judge, Court of Sessions, Cuddalore Division, Cuddalore District.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and also perused the materials available on record.

3. The leaned counsel for the petitioner submitted that before the lower appellate Court, during the course of arguments, one of the family members of the revision petitioner had hospitalised and hence, he could not appear and instruct his counsel to advance his arguments on the date of hearing. The learned Sessions Judge without giving an opportunity to the petitioner/appellant for advancing the arguments, dismissed the appeal for non-appearance of the petitioner on the same day itself, which warrants interference of this Court.

4. On a perusal of the records, it seen that the lower appellate Court



dismissed the appeal in Crl.A.No.32 of 2021 for non-prosecution, since on the date of hearing, the petitioner did not appear before the Court below. It is the contention of the learned counsel for the petitioner that on the date of hearing, one of his relatives was not feeling well, due to which he could not give instructions to his counsel and the lower appellate Court without considering the same dismissed the appeal on the same day itself. The said contention is not acceptable, since it is seen that the appeal was pending before the lower appellate Court for one year and when it was taken up for hearing on 20.06.2022, the lower appellate Court made an observation that despite sufficient opportunities, the petitioner/appellant did not come forward to argue the matter and hence, dismissed the appeal for non-prosecution.

5. The Criminal Court should have dismissed the criminal appeal filed by the accused on merits, however, the lower appellate Court dismissed the appeal for non-prosecution, since the petitioner did not appear before the Court. Now-a-days most of the counsel in Criminal Courts are so irresponsible and due to their irresponsibility the parties should not suffer. Even though the reasons stated in the grounds of the appeal and the contention raised by the appellant are not acceptable, however, in order to



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give an opportunity to the petitioner/appellant to hear the appeal on merits,
I feel it appropriate to remand the matter back to the learned Sessions Judge,
to dispose of the appeal on merits after providing an opportunity to the
petitioner.

6.In the result, this Criminal Revision Case is allowed and the order dated 20.06.2022 passed in Crl.A.No.32 of 2021 by the learned Principal Sessions Judge, Court of Sessions, Cuddalore Division, Cuddalore District is set aside and the matter is remitted back to the lower appellate Court, who shall pass orders on merits and in accordance with law, after affording an opportunity to the revision petitioner. The petitioner/appellant is directed to appear before the learned Sessions Judge on 16.11.2022 and they should argue the matter on the same day itself without fail and the learned Sessions Judge is directed to dispose of the matter on merits in accordance with law. Consequently connected miscellaneous petitions are closed.

07.11.2022

Index : Yes/No
Speaking Order/Non Speaking Order
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Note: Issue order copy on 07.11.2022



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To

1. The Principal Judge,
Court of Sessions,
Cuddalore Division,
Cuddalore District.
2. The Chief Judicial Magistrate,
Cuddalore.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
Cuddalore N.T. Police Station,
Cuddalore.



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P.VELMURUGAN, J.

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