



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A. (MD)No.79 of 2022

WEB COPY

D.Manoharan

... Appellant/Complainant

Vs.

P.Ilanchezhian

... Respondent/Accused

Prayer: This Criminal Appeal Petition filed under Section 378(3) Cr.P.C. to call for the records in C.C.No.210 of 2007 on the file of the Learned Judicial Magistrate, Nilakottai dated 09.04.2021 in dismissing the complaint of the Appellant/Complainant for default and acquitting the Respondent/Accused u/s.256 of Cr.P.C and to set aside the same by allowing the present appeal.

For Petitioner : Mr.R.Thangapandian

JUDGMENT

The Criminal Appeal has been filed to challenge the order passed in C.C.No.210 of 2007, on the file of the Learned Judicial Magistrate, Nilakottai, dated 09.04.2021, thereby dismissing the complaint of the Appellant/Complainant for default and acquitting the Respondent/Accused under Section 256 of Cr.P.C and to set aside the same.

2.The petitioner originally lodged complaint as against the respondent for the offences under Sections 138 of Negotiable Instruments Act in C.C.No. 210 of 2007. It was acquitted on 18.12.2014, on the file of the Judicial Magistrate, Nilakottai. Aggrieved by the same, the petitioner preferred an appeal in C.A.No. 7 of 2018 and the same was allowed, by remanding back to the trial Court for fresh trial by the Judgment dated 22.01.2019.

3.Aggrieved by the same, the respondent preferred revision before this Court in Crl.R.C.(MD)No. 281 of 2019 and the same was dismissed on 09.04.2021. However, the trial court dismissed the complaint, for his non-appearance on 09.04.2021.

4.The learned counsel for the petitioner submitted that after remanding the complaint for fresh trial in CA No.7 of 2018, the respondent preferred revision before this Court and as such he has no knowledge about the pendency of trial before the trial Court and therefore he could not appear before the trial court and it was dismissed for default.



5.Considering all the above facts and circumstances, the petitioner may be given one more opportunity to put forth his case before the trial Court.

6.Accordingly, the order passed by the learned Judicial Magistrate, Nilakottai in C.C.No.210 of 2007 on 09.04.2021, is hereby set aside and the trial court is directed to complete the trial within the period of three months from the date of receipt of a copy of the order, on condition that the petitioner shall appeal before appear before the trial Court on all hearings and co-operate with the trial.

7.With the above directions, this Criminal Appeal is allowed.
No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate,
Nilakottai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-8533[F] dated 24/02/2022)

+1 CC to M/s.R.THANGAPANDIAN, Advocate (SR-8135[F] dated 23/02/2022)

Cr1.A. (MD)No.79 of 2022

23.02.2022

RK(22/03/2022) 2P 6C