



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.R.C. (MD)No.261 of 2022

Pugzalenthi

... Petitioner/Complainant

Vs.

1.Prakash

2.Janet

3.Nangil Organics Private Limited,
No.57, SRV Garden,
Velders Nagar Main Road,
Thanjavur Road, Trichy.

... Respondents/Accused

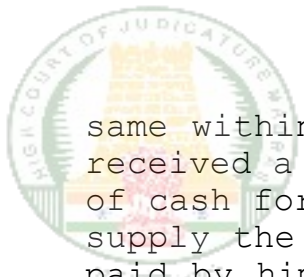
Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to order passed in S.T.C. No. 220 of 2013 on the file of learned Judicial Magistrate No.II, Trichy dated 25.10.2021 and set aside the same by allowing the Revision Petition.

For Petitioner : Mr.M.Rajarajan

ORDER

This petition has been filed as against the order passed in S.T.C. No. 220 of 2013 by the learned Judicial Magistrate No.II, Trichy, on 25.10.2021, thereby dismissed the complaint lodged by the petitioner for the offence under Section 138 of Negotiable Instrument Act, 2002.

2.The petitioner is running a business in the name and style of Sathya Traders India. The respondents 1 and 2 herein are husband and wife and they are doing business in the name of the third respondent. While being so, on 16.04.2012, the respondents agreed to appoint the petitioner as their distributor for their company products in the district of Trichy, Karur, Ariyalur, Perambalur, Cuddalore and Villupuram. In pursuant to the same, they received a sum of Rs.3,00,000/- and a sum of Rs.1,00,000/- as security deposit from the petitioner by way of cheque. Thereafter, the respondents delivered the goods to the petitioner. However, they had taken the delivered goods from the petitioner within a period of three weeks thereafter by stating that the goods are on the edge of expiry dates and promised the petitioner that they will deliver the



same within short span of period. In the meantime, the respondents received a further sum of Rs.6,00,000/- on various occasions by way of cash for the delivered goods. However, the respondents failed to supply the goods. As such, the petitioner demanded the money to be paid by him. Hence, the respondents issued cheque for the borrowed amount. The same was presented for collection and the it was returned for the reason "funds insufficient". Therefore, the petitioner sent legal notice dated 28.12.2012 and they refused to receive the same. Therefore, the petitioner lodged a complaint.

3. Investigation was completed and charge sheet was filed before the concerned Court and the same was taken on file as S.T.C.No.220 of 2013. Immediately the respondents filed a petition seeking transfer of the complaint in Crl.O.P.(MD)No.21282 of 2017 and the same was dismissed on 07.03.2018. When the petitioner was ready to proceed with the trial, the respondents were absent and non bailable warrant is pending against them. While being so, the petitioner due to his physical health, the petitioner did not appear before the trial Court. Therefore, it was dismissed for default. To set aside the same, this criminal revision case has been filed.

4. Heard the learned counsel for the petitioner and considering the nature of relief to be granted, issuance of notice to the respondents is dispensed with.

5. On a perusal of the order passed by the Court below reveals that the petitioner was absent on three occasions, as such the complaint was dismissed for default. Hence, there is fault on the part of the learned Judicial Magistrate No.II, Trichy in dismissing the petition. However, the learned counsel for the petitioner submitted that if one more opportunity may be given to purforth his case, he will succeed, as if he is having a good case.

6. Considering the above facts and circumstances, the impugned order dated 25.10.2021 passed in S.T.C.No.220 of 2013 by the learned Judicial Magistrate No.II, Trichy, is set aside and the criminal revision case is allowed. The learned Trial Court is directed to take the complaint on file and issue notice to the petitioner and the respondents and complete the trial within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



ias

To:-

1. The Judicial Magistrate No.II, Trichy.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-12395[F] dated 16/03/2022)

CrI.R.C. (MD) No.261 of 2022
16.03.2022

SS/25.03.2022 : 3P/4C