



Crl.R.C.No.100 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.100 of 2023

Nanjammal
Petitioner

...

Vs.

S.Robertraj
Respondent

...

PRAYER: Criminal Revision Petition filed under Section 397 of Criminal Procedure Code, 1973 against the order of CMP No.3789 of 2021 dated 27.09.2022 in CFR No.2435 of 2021 on the file of the Judicial Magistrate (Fast Track Court), Coonoor.

For Petitioner : Mr.M.Rajasekhar

ORDER

This Criminal Revision Petition has been filed challenging the order passed by the learned Judicial Magistrate (Fast Track Court), Coonoor in



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CMP No.3789 of 2021 dated 27.09.2022.

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2. The learned counsel for the petitioner submitted that the petitioner filed a complaint against the respondent under Section 138 of Negotiable Instruments Act before the Trial Court, with a delay of 26 days. He also filed a petition in CMP No.3789 of 2021 to condone the above said delay. However, the said petition was dismissed for default on 27.09.2022 by the Trial Court and hence, the above order may be set aside.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. A perusal of the records reveals that the petitioner filed a complaint under Section 138 of Negotiable Instruments Act against the respondent, along with a petition in CMP No.3789 of 2021 to condone the delay of 26 days in filing the above complaint. That petition was dismissed for default on 27.09.2022 by the Trial Court and the order is extracted hereunder.



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" Complainant absent. No representation. Accused present. Posted today for appearance of complainant. Continuously there is no representation for the complainant for the past few hearings.

Hence, this petition is dismissed for default. No costs."

It is to be noted that, the above said order is passed only due to the non appearance of the petitioner and not on merits. To set aside the above order, the petitioner has to file a petition before the Trial Court. But, without approaching the Trial Court seeking appropriate remedy, the petitioner filed the present Criminal Revision Case before this Court, which is not maintainable. Therefore, this Criminal Revision petition is liable to be dismissed.

5. Accordingly, this Criminal Revision petition is dismissed.

23.01.2023

Index: Yes/No
Internet: Yes/No
mst

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To

The Judicial Magistrate (Fast Track Court), Coonoor.

V.SIVAGNANAM, J.,
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