



Crl.R.C.No.364/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.364 OF 2023

M. Gagan Bothra

.. Petitioner

1. Chennai Gold House,
represented by its Proprietor
Phijo Jose,
Shop No.20, Jain Plaza,
No.63, Sir Theyagaraya Road,
Pondy Bazaar, T. Nagar,
Chennai 600 017.
2. Phijo Jose, Proprietor,
Shop No.20, Jain Plaza,
No.63, Sir Theyagaraya Road,
Pondy Bazaar, T. Nagar,
Chennai 600 017.

... Respondents

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C.,to set aside the order dated 23.12.2022 made in Crl.M.P.No.10158 of 2022 by the learned VIII Metropolitan Magistrate, George Town, Chennai and direct the learned VIII Metropolitan Magistrate, George Town, Chennai to take the complaint on file.



Crl.R.C.No.364/2023

For Petitioner : Mr. Gagan Bothra (party-in-person)

WEB COPY

ORDER

This Criminal Revision Case is filed by the petitioner/party-in-person, challenging the impugned order dated 23.12.2022 passed by the learned VIII Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.10158/2022.

2.The learned counsel for the petitioner submitted that the petitioner filed a private complaint u/s.200 Cr.P.C., against the respondents herein, before the VIII Metropolitan Magistrate, George Town, Chennai, for the offences punishable under sections 405, 406, and 420 IPC. He presented the complaint on 12.08.2022. His sworn statement was recorded by the learned Metropolitan Magistrate on 6.10.2022. Then, the case was adjourned on 15.10.2022. On that day, the petitioner marked 3 documents Ex.P.1 to Ex.P3 and the case stood adjourned to 20.10.2022. On 20.10.2022, when the matter was called, since the complainant was absent, the case was again adjourned to 28.11.2022 and thereafter, the case was further adjourned to 23.12.2022. On 23.12.2022, the learned Judge dismissed the complaint for default after recording the presence



Crl.R.C.No.364/2023

of the petitioner that he appeared in person.

WEB COPY

3. On perusal of the impugned order, it is noticed that the learned trial judge, in his order made in Crl.M.P.No.10158 of 2022, mentioned the presence of the petitioner appearing in person, but without assigning any reason, dismissed the complaint for default. In the absence of any valid reason for dismissing the complaint for default, the impugned order is unsustainable. Therefore, the impugned order is hereby set aside and the complaint is restored to the file of VIII Metropolitan Magistrate, George Town, Chennai. The trial court is directed to restore the complaint on file to examine the complaint, if needed further, and dispose the case on merits within a period of two weeks from the date of receipt of copy of the order.

4. This Criminal Revision Case is allowed accordingly.

28.02.2023

msr

Index:yes/no

Internet:yes/no



WEB COPY



Crl.R.C.No.364/2023

V.SIVAGNANAM, J.

msr

To

The VIII Metropolitan Magistrate,
George Town, Chennai.

Crl.R.C.No.364/2023

28.02.2023