



Crl.A.No.676 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.A.No.676 of 2023

M/s.Pondicherry Agro Foods Pvt Ltd.,
Rep. by its Authorised Signatory
Mr.S.Yuvaraj ... Appellant

Vs.

Mr.Paneerselvam
Proprietor of M/s.Sri Kamatchi Agencies ... Respondent

Prayer : Criminal Appeal filed under Section 378 of Criminal Procedure Code to call for the records in C.C.No.122/2019 on the file of Metropolitan Magistrate, Fast Track Court -II, Allikulam Complex, Egmore, Chennai and set aside the impugned judgment dated 27.10.2022 and subsequently, reopen the case for trial.

For Appellant : Mr.Yusuf.S.Q

For Respondent : Mr.M.Himavanth

JUDGMENT

The present Criminal Appeal is filed against the orders dated 27.10.2022 in C.C.No.122/2019 passed by the learned Metropolitan Magistrate, Allikulam Complex, Chennai.

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2. The present appellant filed the complaint against one Paneerselvam, Proprietor of M/s.Sri Kamatchi Agencies for the offences u/s.138 & 142 of the Negotiable Instruments Act. Summons were issued to the accused and the accused also appeared before the concerned Court. The present appellant wanted to implead the new authorized signatory for the company and though it was posted on several occasions, he did not take steps in this regard. Thereafter, he did not also appear before the Court and the counsel appearing on the side of the complainant withdrew his vakalat. Therefore, the learned Metropolitan Magistrate, Allikulam Complex, Chennai passed the following orders :

"Complainant absent. No representation. Previously notice sent to the complainant. This case was pending from 2019. For steps. Sufficient opportunities given to the complainant, complainant side not ready. Even today the complainant not appeared.

Considering all the above circumstances and the summary nature of this case, this complaint is hereby dismissed



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3. Heard Mr.Yusuf.S.Q, learned counsel for the appellant and Mr.M.Himavanth, learned counsel for the respondent.

4. Mr.Yusuf.S.Q, learned counsel for the appellant contended that he is ready to take necessary steps and that since the cheque amount is around Rs.6,00,000/-, an opportunity may be given to the complainant.

5. Per contra, Mr.M.Himavanth, learned counsel for the respondent contended that though the trial Court granted several opportunities to the present complainant for impleading the authorized signatory for the complainant company, he did not take steps and thereafter, the complainant was also absent and the counsel also withdrew his vakalat. He therefore, prayed for dismissal of the petition.

6. It is seen from the records that originally complaint was filed before the Judicial Magistrate No.1, Kancheepuram in S.T.C.No.89/2015 and subsequently, it was transferred to the Metropolitan Magistrate, Allikulam Complex, Egmore, Chennai and renumbered as C.C.No.122/2019. Since the complaint has been dismissed on the ground that the complainant was absent and he did not take steps though



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sufficient opportunities given to him, this Court is of the view that one more opportunity can be given to the appellant to put forth his contention before the trial Court and this appeal is accordingly allowed.

7. In the result, the Criminal Appeal is allowed. The order passed by the Metropolitan Magistrate, Allikulam Complex, Egmore, Chennai on 27.10.2022 is set aside and the concerned Court is directed to take C.C.No.122/2019 on file and conclude the trial within a period of three months from the date of receipt of a copy of this order.

12.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

R. HEMALATHA, J.

mtl



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To

- 1.The Metropolitan Magistrate, Allikulam Complex, Egmore, Chennai
2. The Section Officer, Criminal Section, High Court, Madras.

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