



Crl.A.No.758 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

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

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1. Rashiyabegam
2. Shajahan
Ameerbasha (Died)

... Appellants

Vs.

M.Selvaraj

... Respondent

Prayer : Criminal Appeal filed under Section 378 of the Criminal Procedure Code, to set aside the order of acquittal dated 13.02.2023 in S.T.C.No.55 of 2019 on the file of the learned Judicial Magistrate, Harur.

For Appellants : Mr.J.Pradeep

For Respondent : Mr.N.Baaskaran

JUDGMENT

Challenging the orders, dated 13.02.2023 in S.T.C.No.55 of 2019 passed by the learned Judicial Magistrate, Harur, the present Criminal Appeal is filed.

2. The deceased appellant / complainant filed a private



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complaint under Section 200 Cr.P.C., in S.T.C.No.55 of 2019 before the learned Judicial Magistrate, Harur, against the respondent / accused for an offence punishable under Section 138 of the Negotiable Instruments Act. During the pendency of S.T.C.No.55 of 2019, the original complainant died and thereafter his legal heirs filed a petition to implead themselves in S.T.C.No.55 of 2019. Though the said petition was allowed on 16.08.2022, the appellants did not carry out amendment in the complaint, though they were given sufficient opportunities. Ultimately the complaint was dismissed for default on 13.02.2023.

3. Mr.J.Pradeep, learned counsel for the appellants contended that the appellants at the relevant point of time, were residing in Chennai and they could not go over to the concerned Court due to Covid 19 pandemic situation to make necessary amendments in the complaint. Hence, the learned counsel prayed for granting an opportunity to the appellants to prove their case.



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4. Mr.N.Baaskaran, learned counsel for the respondent vehemently opposed for allowing the present Criminal appeal. His contention is that the present appellants were not diligent enough in carrying out necessary amendments in the complaint as per the directions of the trial Court and therefore, they cannot be permitted to prosecute the case.

5. A perusal of the records shows that the original complainant died on 06.01.2020 and thereafter the present appellants filed a petition in Crl.M.P.No.1275 of 2021 in S.T.C.No.55 of 2019 to implead themselves as parties to the proceedings. Though the said petition was allowed on 16.08.2022, they did not carry out amendment in the private complaint and on this ground the private complaint was dismissed. This Court is of the opinion that an opportunity can be given to the present appellants to prove their case with regard to dishonour of cheque.

6. In view of the above, the case is remitted back to the trial



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Court. The learned Judicial Magistrate, Harur is directed to take the case on file and dispose of the case on merits, within a period of three months from the date of receipt of a copy of this order.

7. With the above observation, this Criminal Appeal is allowed. The Judgment and order, dated 13.02.2023 passed in S.T.C.No.55 of 2019 by the Judicial Magistrate, Harur is set aside.

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Index: Yes/No
Speaking/Non-Speaking order
vum

To

1. The Judicial Magistrate, Harur.
2. The Section Officer,
Criminal Section,
Madras High Court, Chennai.

R. HEMALATHA, J.



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