



Crl.R.C(MD)No.586 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 14.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.586 of 2023

V.Senthil

.. Petitioner /Complainant

Vs.

Santhanam Vijaya Govindaram

.. Respondent/ Accused

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 25.11.2022 passed in S.T.C.No.65 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, to set aside the judgment pronounced in S.T.C.No.65 of 2022 and to direct the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, to take the complaint on file for trial.

For Petitioner : Mr.V.R.G.Mohan

For Respondent : No appearance



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ORDER

This Criminal Revision Case is filed against the order passed in S.T.C.No.65 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, and to direct the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, to take the complaint on file for trial.

2. The petitioner is the complainant before the learned Judicial Magistrate (Fast Track Court), Uthamapalayam in S.T.C.No.65 of 2022. The respondent borrowed a sum of Rs.5,00,000/- as handloan from the petitioner on 18.03.2021. For the purpose of making repayment, the respondent issued cheque for a sum of Rs.5,00,000/-, dated 01.10.2021. The said cheque was dishonoured. Thereafter, the petitioner issued legal notice on 23.12.2021. Upon receipt of the same, there was no response from the respondent. Hence, the petitioner filed a complaint under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate, Fast Track Court, Uthamapalayam and the same was taken on file in S.T.C.No.65 of 2023.

3. Thereafter, the learned Judicial Magistrate issued notice and the same was served. Thereafter, the respondent did not appear before the Court



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and hence, bailable warrant was issued on 20.05.2022. For that process, necessary fee was not paid by the petitioner and hence, the complaint was dismissed by the learned Magistrate on 25.11.2022.

4. It is submitted by the learned counsel for the petitioner that in all hearings, the petitioner was present and on the particular date of hearing, ie., on 25.11.2022, due to some unavoidable circumstances, the petitioner was not able to appear before the Court and hence, the dismissal of the complaint by the learned Judicial Magistrate caused injustice to him.

5. This Court issued notice to the respondent and the same was served on him. But, he did not make appearance and hence, his name was printed in the cause list. Despite the same, there was no representation on behalf of the respondent even today.

6. This Court has considered the submission made by the learned counsel for the petitioner and perused the records.

7. The Court is of the considered view that adjudication may be ended either in acquittal or conviction, but dismissal of the petition for the reason



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of non-payment of process fee is not in accordance with law. Hence, this Court is inclined to set aside the order passed by the trial Court.

8. In the result, this Criminal Revision Case is allowed. The impugned order dated 25.11.2022 in S.T.C.No.65 of 2022 passed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam is hereby set aside and the learned Magistrate is directed to take the complaint on file and proceed further after affording sufficient opportunity to the parties.

14.07.2023

NCC : Yes/No
Index :Yes/No
Internet :Yes/No

PJL

To
The Judicial Magistrate,
Fast Track Court,
Uthamapalayam.



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K.K.RAMAKRISHNAN, J.

PJL

**Order made in
Crl.R.C(MD)No.586 of 2023**

14.07.2023