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Crl.R.C.No.138 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.138 of 2023

K.Magesh @ Mageshwaran

... Petitioner

Vs.

S.Vishnupriya

... Respondent

PRAYER : Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the order dated 18.11.2022 made in C.C.No.6503 of 2019 on the file of the II Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.Mohamed Rafi

For Respondent : No appearance

O R D E R

This criminal revision case is filed against the impugned order dated 18.11.2022 passed in C.C.No.6503 of 2019 by the learned II Metropolitan Magistrate, Egmore, Chennai.



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2. The case of the petitioner / complainant is that the respondent is the accused and the respondent had borrowed a sum of Rs.3,50,000/- from the petitioner for her personal expenses. To discharge her liability, the respondent has given cheque for a sum of Rs.3,50,000/- bearing Cheque No.000025 dated 06.05.2019. When the cheque was presented for collection by the complainant, the same was returned dishonoured with an endorsement “account closed”. Since, there was no reply, the complainant has filed a case against the respondent / accused for the alleged offence under Sections 406 and 420 of IPC before the learned II Metropolitan Magistrate, Egmore, Chennai. However, on 18.11.2022, the trial Court dismissed the case for non-appearance of the petitioner. Challenging the same, the petitioner has filed the present revision before this court.

3. The learned counsel appearing for the petitioner submitted that no case can be disposed without providing opportunity, however, in the present case, due to ill-health of his father, the petitioner has not appeared



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before the trial Court. However, without considering the same, the trial court dismissed the case, which is wholly unsustainable.

4. Though notice was ordered on the respondent, till date the petitioner has not taken any effective steps to serve notice on her. Considering the pendency of this revision, this Court is inclined to dispose of this revision based on the materials available on record.

5. On a careful perusal of the order of the trial Court, it is crystal clear that the trial Court has taken several precautionary steps before passing the order dismissing the case. In fact, the trial Court posted the case for petitioner's side evidence, the petitioner / complainant has not appeared before the trial Court. Here is a case, even though, the case is pending before the trial Court from 2019, the petitioner / complainant has not chosen to appear before the trial Court and therefore, the trial Court has rightly dismissed the case. The non-appearance of the complainant before the trial Court shows that the complainant is not interested in pursuing the matter



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further and therefore, such kind of attitude of the complainant should be nipped in bud and hence, I do not find any reason to interfere with the reasoned order of the trial Court dated 18.11.2022 made in C.C.No.6503 of 2019. It is further to be pointed out that instead of approaching the appropriate Court under Section 138 of N.I. Act or Civil Court, the petitioner has approached the criminal Court by filing a petition under Section 200 Cr.P.C is unsustainable. However, liberty is granted to the petitioner to approach the Civil Court and the period of pendency of the petition filed by the petitioner before the wrong forum shall stand excluded for the purpose of computation of limitation.

6. Accordingly, this Civil Revision Case is dismissed.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

The II Metropolitan Magistrate,
Egmore,
Chennai.



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M.DHANDAPANI, J.

vji

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