



WEB COPY



CrI.R.C.No.156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**CrI.R.C.No.156 of 2024
and CrI.M.P.No.1341 of 2024**

1.D.S.Capital Services
Rep.by its Proprietor,
K.Ramani

2.K.Ramani

... Petitioners

Vs.

N.Malarkodi

... Respondent

PRAYER : Criminal Revision filed under Section 397 (1) of the code of Criminal Procedure, 1973 to set aside the order passed by the learned Principal Sessions Judge, Chennai, in C.A.No.738 of 2023 dated 12.12.2023.

For Petitioners : Mr.P.Iyyappan

For Respondent : Mr.A.Viswanathan



Crl.R.C.No.156 of 2024

WEB COPY

ORDER

The criminal revision case has been filed to set aside the order dated 12.12.2023 passed by the learned Principal Sessions Judge, Chennai, in C.A.No.738 of 2023.

2. The learned counsel appearing for the petitioners submits that the petitioners are the accused in S.T.C.No.2736 of 2023 on the file of the learned XXV Metropolitan Magistrate, Egmore, Chennai and the trial Court convicted the petitioners under Section 138 of Negotiable Instruments Act and since the first petitioner is the Company represented by its Proprietor, who is the second petitioner herein, the second petitioner was sentenced to undergo simple imprisonment for a period of three months and the petitioners were directed to pay the cheque amount of Rs.65,000/- as compensation to the complainant, in default, to undergo simple imprisonment for a period of 15 days and the trial Court suspended the sentence till 02.11.2023. Aggrieved by the conviction imposed against the



Crl.R.C.No.156 of 2024

petitioners, the petitioners have filed appeal in C.A.No.738 of 2023 before the Appellate Court, however, the same was dismissed for default on the ground that the petitioners have not surrendered before the Court and process fee has not been paid in the appeal. Challenging the same, the petitioners have filed the present revision.

3. The learned counsel appearing for the petitioners submits that in order to show their *bona fide*, the petitioners are ready to deposit 50% of the cheque amount before the trial Court. Therefore, this Court may set aside the impugned order and remand the matter back to the Appellate Court for fresh consideration.

4. The learned counsel appearing for the respondent has no objection for setting aside the impugned order, if the petitioners deposit 50% of the cheque amount before the trial Court.



Crl.R.C.No.156 of 2024

WEB COPY

5. Considering the submission made by the learned counsel appearing for the petitioners that the petitioners, in order to show their *bona fide*, are ready to deposit 50% of the cheque amount before the trial Court, since the appeal was dismissed for default on the ground that the petitioners have not surrendered before the Court and process fee has not been paid in the appeal, this Court is inclined to set aside the impugned judgment dated 12.12.2023 passed in C.A.No.738 of 2023 by the learned Principal Sessions Judge, Chennai, and accordingly, it is set aside. The petitioners are directed to deposit 50% of the cheque amount within a period of two weeks from the date of receipt of this order and file a proof before the Appellate Court. On such proof being filed by the petitioners, the learned Principal Sessions Judge, Chennai, is directed to take C.A.No.738 of 2023 on file and dispose of the appeal on merits and in accordance with law within a period of three months from the date of filing of proof by the petitioners, after providing sufficient opportunity to the petitioners and the respondent.



WEB COPY



Crl.R.C.No.156 of 2024

6. Accordingly, the Criminal Revision Case is allowed. Connected miscellaneous petition is closed.

09.07.2024

NCC : Yes / No

(1/3)

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1. The learned Principal Sessions Judge, Chennai.
2. The Public Prosecutor,
Madras High Court.



WEB COPY



Crl.R.C.No.156 of 2024

M.DHANDAPANI, J.

ssb

Crl.R.C.No.156 of 2024

09.07.2024