



Crl.A.No.769 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.769 of 2024

Fazil Javith

... Appellant

Vs.

Saravanan

... Respondent

PRAYER : Criminal Appeal filed under Section 378 of the code of Criminal Procedure, 1973 to call for the entire records of the order dated 29.11.2023 in connection with S.T.C.No.504 of 2020 on the file of the learned Judicial Magistrate No.II, Krishnagiri District and set aside the same.

For Appellant : Mr.R.Kannadasan

For Respondent : Mr.G.Saravanabhavan
Legal Aid Counsel



Crl.A.No.769 of 2024

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J U D G M E N T

This criminal appeal has been filed against the acquittal order dated 29.11.2023 passed in S.T.C.No.504 of 2020 by the learned Judicial Magistrate No.II, Krishnagiri.

2. The learned counsel appearing for the appellant submits that the appellant is the complainant in the complaint filed under Section 138 of Negotiable Instruments Act, 1981, and he could not appear before the trial Court on 29.11.2023, however, the said complaint was dismissed for non-prosecution on 29.11.2023 for non-appearance of the appellant by the trial Court acquitting the accused without providing any opportunity to the appellant and without any discussion on the merits of the case. Challenging the same, the present appeal has been filed.

3. The learned Legal Aid counsel appearing for the respondent submits that since the appellant has not appeared before the trial Court, the trial Court has rightly dismissed the case which need not be interfered with



Crl.A.No.769 of 2024

by this Court.

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Crl.A.No.769 of 2024

WEB COPY

4. Heard the learned counsel appearing for the appellant and the learned Legal Aid counsel appearing for the respondent.

5. Considering the facts and circumstances of the case and the fact that the complaint preferred by the appellant was dismissed for non-prosecution on 29.11.2023 due to non-appearance of the appellant, in order to give one opportunity to the appellant, this Court is inclined to set aside the impugned order dated 29.11.2023 passed in S.T.C.No.504 of 2020 by the learned Judicial Magistrate No.II, Krishnagiri, and accordingly, it is set aside. The matter is remanded back to the trial Court for fresh consideration. The learned Judicial Magistrate No.II, Krishnagiri, is directed to restore S.T.C.No.504 2020 on file and decide the matter on merits and in accordance with law, after providing sufficient opportunity to the appellant and the respondent and dispose of the case within a period of two months from the date of receipt of a copy of this judgment. If the appellant fails to appear before the trial Court, the trial Court may pass appropriate orders by invoking the power available under Section 256 Cr.P.C.



Crl.A.No.769 of 2024

WEB COPY

6. Accordingly, this Criminal Appeal is allowed. The State Legal

Services Authority is directed to pay admissible fees to

Mr.G.Saravanabhavan, learned Legal Aid Counsel.

20.06.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

The learned Judicial Magistrate No.II,
Krishnagiri District.



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Crl.A.No.769 of 2024

M.DHANDAPANI, J.

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Crl.A.No.769 of 2024

20.06.2024