



Crl.R.C.No.396 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

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P.Karuppasamy

... Petitioner

Vs.

Manimaran

... Respondent

Prayer : Criminal Revision Case is filed under Section 397 r/w 401 Cr.P.C, against the order dated 07.10.2022 made in S.T.C.No.576 of 2018 on the file of the learned Judicial Magistrate Fast Track Court at Poonamalle.

For Petitioner : Mr.V.Rengarajan

For Respondent : Party in Person

ORDER

This criminal revision petition has been filed against the order dated 07.10.2022 made in S.T.C.No.576 of 2018 on the file of the learned Judicial Magistrate Fast Track Court at Poonamalle.

2. The case of the prosecution is that, the petitioner filed a petition u/s.138 & Section 141, 142 of Negotiable Instruments Act in



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S.T.C.No.576 of 2018 in order to recover the cheque amount of Rs.15,00,000/- from the accused and the same was dismissed under Section 204(4) of Cr.P.C on 07.10.2022 on the ground that the petitioner did not appear on several occasions. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submitted that, the trial Court dismissed the complaint filed by the petitioner for non-prosecution, vide impugned order without affording an opportunity of personal hearing to the petitioner and erred in acquitting the respondent which is *per se* unsustainable, as the non-appearance on the part of the petitioner is neither wilful nor wanton and the petitioner was unable to appear before the trial court only due to certain health ailments. Accordingly, he prayed this Court to set aside the order dated 07.10.2022 made in S.T.C.No.576 of 2018 and remit the matter to the trial Court by fixing an outer limit time to dispose of the complaint filed by the petitioner.

4. The respondent / party-in-person appeared before this Court and submitted that, the complaint is of the year 2018 which came to be



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dismissed by the trial court only in the year 2022 for want of appearance of the petitioner, after a lapse of four years by considering the fact that the said act of the petitioner is nothing but to delay the proceedings and to harass the respondent and the said order of the trial court does not warrant any interference of this Court. He further submitted that this Court may direct the petitioner to pay a reasonable compensation for the mental agony suffered by him for the inordinate delay on the part of the petitioner to appear before the trial Court.

5. This Court gave its anxious consideration to the submission advanced by the learned counsel for the petitioner and the respondent / party-in-person and perused the materials available on record.

6. A perusal of the materials available on record reveal that on the date when the case was posted, the petitioner had not appeared before the court due to alleged ill health, which prompted the court to dismiss the case for non-prosecution and at the same time acquitting the respondent. The said act of the court below in acquitting the respondent is *per se* impermissible as without hearing the petitioner, the court below ought not



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have dismissed the petition as an opportunity of hearing is mandatory and non-grant of the same is in violation of principles of natural justice. Therefore, this court is inclined to set aside the impugned order and remand the matter to the court below for fresh consideration.

7. Accordingly, for the reasons aforesaid, the order passed by learned Judicial Magistrate Fast Track Court at Poonamalle in S.T.C.No.576 of 2018 dated 07.10.2022 is set aside and the matter is remitted to the trial Court for fresh adjudication. The petitioner is directed to pay a sum of Rs.5,000/- as costs for the mental agony suffered by the respondent for the non-appearance of the petitioner before the trial Court and upon receipt of payment of proof of the costs paid by the petitioner, the trial court is directed to restore the complaint in S.T.C.No.576 of 2018 on file and take up the same for disposal. Further, the petitioner is directed to appear before the court on the date fixed and let in evidences before the trial Court and the respondent is at liberty to cross examine the prosecution witnesses. After production and examination of the witnesses, the trial Court after affording an opportunity of hearing to the parties is directed to dispose of the complaint filed by the petitioner upon perusal of the



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materials placed before it within a period of three (3) months from the date of receipt of a copy of this order. Further, it is open to the trial Court to dismiss the complaint made by the petitioner by invoking power u/s. 256 of Cr.P.C. if the petitioner fails to appear before the trial Court on the first date fixed for hearing.

8. With the above directions, this Criminal Revision Petition is allowed.

22.07.2024

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
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M.DHANDAPANI, J.

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To

1. The Judicial Magistrate Fast Track Court at Poonamalle.
2. The Public Prosecutor,
High Court of Madras.

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