



Crl.R.C.No.636 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.636 of 2024

1. M/s.J.D.Constructions & Promotors Pvt. Ltd.,
No.103, First Floor, Dr.Lakshmanasamy Salai,
K.K.Nagar, Chennai-78.

2. N.Devanand

... Petitioners

Vs.

Sumithra

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to call for the records relating to the order made in Crl.MP.No.24188 of 2022 in Crl.A.SR.No.21391 of 2022 in CC.No.4922 of 2015 by order dated 06.12.2022 passed by the learned Principal District and Session Court at Chennai.

For Petitioners : Mr.K.Kannan

For Respondent : Mr.R.Rajesh Vivekanandan

ORDER

This Criminal Revision case has been filed seeking quashment of the order made in Crl.MP.No.24188 of 2022 in Crl.A.SR.No.21391 of 2022 in CC.No.4922 of 2015 by order dated 06.12.2022 passed by the



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learned Principal District and Session Court at Chennai.

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2. The fact of the case is that the petitioners are an accused in CC.No.4922 of 2015 on the file of the learned Metropolitan Magistrate, FTC-II, Saidapet, Chennai and the same was ended in conviction vide order dated 14.08.2022. As against which, the petitioners have filed appeal along with Crl.MP.No.24188 of 2022 before the learned Principal Sessions Court, Chennai with a delay of 45 days. For non appearance of the petitioner on 06.12.2022, the said petition was dismissed for default vide order dated 06.12.2022. Challenging the same, the present revision has been filed.

3. The learned counsel for the petitioner submitted that since the counsel on record before the appellate court was appearing in some other Court, he was not able to reach the Court in time. Due to his absence, the learned Judge has dismissed the case for default, which is not sustainable one.



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4. The learned counsel for the respondent vehemently contended that non appearance before the lower appellate Court for representing the case is serious one. Therefore, the learned Judge has rightly dismissed the case for default, which does not warrant any interference.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. On perusal of the impugned order, it is seen that as against the conviction, the petitioners have filed appeal before the lower appellate Court with a delay of 45 days. When the case was taken up for hearing on 06.12.2022, the learned counsel for the petitioners has not appeared before the Court and no one has represented in the case. Hence, the learned Judge has dismissed the case.

7. This Court is atleast understood how the learned Judge has dismissed the appeal in the absence of the petitioners/accused on only



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one occasion. The learned Judge ought to have given one more opportunity to the petitioners in order to prove their innocence.

8. In such view of the matter, this Court is inclined to set aside the order in Crl.MP.No.24188 of 2022 in Crl.A.SR.No.21391/2022 passed by the Principal District and Sessions Judge, Chennai.

9. Accordingly, the revision is allowed and the Principal District and Sessions Judge, Chennai shall condone the delay and entertain the appeal and pass appropriate orders on merits. The petitioners are directed to cooperate with the said Court and appear during court hearings without fail, failing which, the order of dismissal passed by the learned Judge would stand revived.

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Index: Yes/No
Speaking/Non-Speaking order
Rli

To
1.The Principal District and Session Court at Chennai.
2. The Public Prosecutor, High Court, Madras.

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M.DHANDAPANI, J.

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