



CrI.A.No.292 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

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

CrI.A.No.247 of 2021

S.Ramasamy

... Appellant

Vs.

C.Selvam

... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C, to set aside the order of acquittal passed in C.C.No.530 of 2017 on the file of the Judicial Magistrate, FTC-I, Magisterial Level, Coimbatore.

For Appellant

: Mr.S.Ramachandran

For Respondent

: No appearance

JUDGMNT

The appeal has been filed against the order of acquittal passed in C.C.No.530 of 2017 on the file of the Judicial Magistrate, FTC-I, Magisterial Level, Coimbatore under Section 138 of Negotiable Instruments Act.

2. The learned counsel for the appellant submitted that the trial Court was dismissed the complaint in CC.No.530 of 2017 for non-appearance of the



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parties. Initially, a non-bailable warrant has been issued against the respondent and the same has not been executed till passing of the impugned order and the accused has been acquitted as per Section 204(4) of Cr.P.C.

3. The learned counsel further submitted that the appellant is aged above 70 years and was unable to attend the hearing on 14.02.2020, the date on which the complaint was dismissed and was also unable to inform his counsel about his non-appearance. Therefore, the learned counsel may set aside the order and remanded the matter back to the trial Court for fresh consideration and for the inconvenience caused to the Court, the appellant is ready to pay cost as imposed by this Court.

4. Considering the fact that for non appearance of the parties, the petition was dismissed and there is absolutely no other reason assigned for dismissing the petition and this Court is of the view that the petitioner should be given an opportunity.

5. In view of the above, the order passed by the trial Court is set aside and the order passed by the trial Court is set aside and remanded the matter



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back to the trial Court with the following directions:

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"1. The appellant is directed to pay a sum of Rs.5,000/- (Rupees Five thousand only) to the Legal Aid Services, High court, Chennai within a period of two weeks from the date of receipt of a copy of this order and produce the receipt before the trial Court;

2. After perusing the same, the learned Judge shall take up the matter and pass orders after giving opportunity to the parties in accordance with law, as expeditiously as possible."

6. In the result, the Criminal Revision is allowed and C.C.No.530 of 2017 is remitted back to the learned Judicial Magistrate, FTC-I, Magisterial Level, coimbatore.

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

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To

The Judicial Magistrate, FTC-I, Magisterial Level, Coimbatore.

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