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CrI.R.C.No.1203 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.1203 of 2024

E.Sriram

... Petitioner

Vs.

M.Mohanraj

... Respondent

PRAYER : Criminal Revision filed under Sections 397 and 401 of the code of Criminal Procedure, to set aside the order passed in C.M.P.No.4356/2023 on the file of the Judicial Magistrate No.II at Pollachi dated 04.07.2023.

For Petitioner : Mr.R.C.Paul Kanagaraj
for Ms.P.J.Anitha

For Respondent : No appearance

ORDER

The Criminal Revision Case is filed against the order dated 04.07.2023 passed in C.M.P.No.4356 of 2023 by the learned Judicial Magistrate No.II, Pollachi.

2. The learned counsel appearing for the petitioner submits that the petitioner is arrayed as accused in the complaint instituted by the respondent under Section 138 of Negotiable Instrument Act and the same was taken on file by the learned Judicial Magistrate No.II, Pollachi in C.M.P.No.4356 of 2023, however, the same was dismissed as default on 04.07.2023. He would



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further submit that since the petitioner had undergone medical treatment for jaundice fever and other ailments, he could not contact his counsel and was unable to proceed with the case effectively. However, to show his *bona fide*, the petitioner is ready to pay a sum of Rs.5,000/- to the respondent for the inconvenience caused to the respondent and this Court may set aside the order dated 04.07.2023, since without providing opportunity to the petitioner, the case was dismissed as default on 04.07.2023.

3. Though notice served on the learned counsel for the respondent, there is no appearance on his behalf.

4. Considering the submissions made by the learned counsel appearing for the petitioner, and the fact that the C.M.P.No.4356 of 2023 filed by the petitioner was dismissed as default on 04.07.2023, in order to give one opportunity to the petitioner, this Court is inclined to set aside the judgment dated 04.07.2023 passed in C.M.P.No.4356 of 2023 by the learned Judicial Magistrate No.II, Pollachi and accordingly, it is set aside on the following terms:

(i) the petitioner is directed to pay a sum of Rs.5,000/- (Rupees



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Five Thousand only) to the respondent and a proof to that effect shall be produced before the learned Judicial Magistrate No.II, Pollachi.

(ii) On production of proof by the petitioner, the learned Judicial Magistrate No.II, Pollachi, is directed to restore C.M.P.No.4356 of 2023 on file and decide the case on merits and in accordance with law, after providing sufficient opportunity to the petitioner and the respondent, and dispose of the same as expeditiously as possible.

5. Accordingly, the criminal revision case is allowed.

31.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

msv

To

1. The learned Judicial Magistrate No.II, Pollachi.
2. The Public Prosecutor, High Court, Madras.



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M.DHANDAPANI, J.

msv

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