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Crl.A.No.709 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.709 of 2024

R.Vijayakumar

... Appellant

Vs.

S.Banumathi

... Respondent

Prayer:

Appeal filed under Section 378 of Criminal Procedure Code seeking to set aside the order dated 21.11.2022 made in C.C.No.51 of 2015 passed by the learned Judicial Magistrate Court No.II, Walajahpet, Ranipet District by allowing this criminal appeal.

For Appellant : Mr.C.Harish
For Respondent : No Appearance

J U D G M E N T

The criminal appeal has been filed seeking to set aside the order dated 21.11.2022 made in C.C.No.51 of 2015 by the Judicial Magistrate Court No.II, Walajahpet, Ranipet District.

2.The case of the appellant is that the appellant filed complaint under Section 138 of the Negotiable Instruments Act as against the



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respondent in C.C.No.51 of 2015 and the same was dismissed for default on 21.11.2022 by the Judicial Magistrate Court No.II, Walajahpet, Ranipet District. Challenging the same, the appellant has preferred the appeal.

3.The learned counsel appearing for the appellant submitted that the complaint was filed in the year 2015 and bailable warrant was pending as against the accused. Due to ill health, the appellant could not appear before the trial Court and the non appearance is neither willful nor wanton. The trial Court ought to have given one more opportunity to the appellant, however, the trial Court dismissed the case for default, which is not sustainable one.

4.Though the name of the respondent has been printed in the cause list, there is no representation for the respondent. This Court is inclined to proceed with the case and decide the same based on the materials available on record.

5.The present appeal has been filed for dismissal of the complaint under Section 256 of Cr.P.C. Inorder to give one more



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opportunity to the appellant, this Court set aside the order dated 21.11.2022 made in C.C.No.51 of 2015 by the Judicial Magistrate Court No.II, Walajahpet, Ranipet District and remit the matter back to Judicial Magistrate Court No.II, Walajahpet, Ranipet District. The Judicial Magistrate Court No.II, Walajahpet, Ranipet District, shall restore C.C.No.51 of 2015 on its file and consider the matter afresh and allow the appellant as well as the respondent to let in evidence and dispose of the case as expeditiously as possible.

6.The criminal appeal is allowed on the above terms.

20.06.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

The Judicial Magistrate Court No.II,
Walajahpet,
Ranipet District.



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M.DHANDAPANI,J.
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