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Crl.R.C.No.1300 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1300 of 2024
and
Crl.M.P.No.11299 of 2024

Praveen Kumar

... Petitioner

Vs.

Lenin

... Respondent

Prayer: Criminal Revision Petition filed under Sections 438 and 442 of Bharatiya Nagarik Suraksha Sanhita Act, praying to set aside the Docket Order dated 23.04.2024 in Crl.M.P.No.1568 of 2023 in Crl.A.No.39 of 2022, on the file of Principal District and Sessions Court, Namakkal.

For Petitioner : Mr.J.Jayan

ORDER

This petition has been filed challenging the Docket Order dated 23.04.2024 in Crl.M.P.No.1568 of 2023 in Crl.A.No.39 of 2022, on the file of Principal District and Sessions Court, Namakkal.



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2.The petitioner/accused was convicted by the trial Court by judgment dated 07.04.2022 in C.C.No.302 of 2018 filed by the respondent under Section 138 of the Negotiable Instruments Act. Aggrieved against the said order, he preferred an appeal in Crl.A.No.39 of 2022 and the same is pending before the learned Principal District and Sessions Judge, Namakkal, in which, he filed a petition under Section 391 of Cr.P.C. in Crl.M.P.No.1568 of 2023 to receive the following documents:

- (i) The letter issued by the respondent dated 24.03.2017.*
- (ii) The letter issued to the Tahsildar, Namakkal along with Documents dated 17.04.2017.*
- (iii) The letter issued by the Fire Service Department dated 26.04.2017.*
- (iv) The letter issued by the Department of Public Health and Preventive Medicine dated 28.12.2017.*
- (v) Encumbrance Certificate dated 06.09.2023.*

3.The contention of the learned counsel for petitioner is that the trial Court has passed a non speaking order. The relevancy of considering the five documents not discussed in the order. His further contention is that the petition was not dismissed on merits but on technical ground for non appearance of the petitioner's counsel as well as the respondent's counsel.



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4.Considering the submission made by the learned counsel for petitioner and on perusal of the material, it is seen that the appeal was filed in the year 2022 and the miscellaneous petition was filed on 07.09.2023. From then on, the case periodically adjourned for enquiry. This Court perused the impugned order dated 23.04.2024. No doubt, Crl.M.P.No.1568 of 2023 was filed on 07.09.2023 in Crl.A.No.39 of 2022 to receive additional documents and to take further evidence on the side of the appellant/petitioner. In Crl.M.P.No.1568 of 2023, notice was ordered on 29.09.2023 and thereafter, it was adjourned to 13.10.2023, 10.11.2023, 18.12.2023, 30.01.2024, 23.02.2024, 25.03.2024 and finally on 23.04.2024, the petition was dismissed for the reason that despite sufficient opportunity given, none appeared for enquiry on either side.

5.It is seen that Crl.M.P.No.1568 of 2023 was dismissed on technical grounds for non-prosecution and not on merits. Hence, no prejudice would be caused to the respondent in the event of restoring the petition. Hence, notice to the respondent is dispensed with.



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6.It is also seen that the case now stands posted on 29.08.2024 for further proceedings. In view of the same, the impugned order dated 23.04.2024 passed by the learned Principal District and Sessions Judge, Namakkal is set aside and the petition in Crl.M.P.No.1568 of 2023 in Crl.A.No.39 of 2022 is restored on the file of Principal District and Sessions Court, Namakkal.

7.The petitioner is directed to appear before the Principal District and Sessions Court, Namakkal on 29.08.2024 and advance his arguments and the Sessions Court on hearing either side, pass orders on merits.

8.It is also made clear that judgment in C.C.No.302 of 2018 filed under Section 138 of the Negotiable Instruments Act was passed after four years of trial on 07.04.2022 and the appeal is pending for almost two years. In view of the same, the learned Principal District and Sessions Judge, Namakkal is directed to complete the proceedings in Crl.A.No.39 of 2022 without any further delay, preferably within a period of two months from the date of receipt of a copy of this order.



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9. With the above directions, the Criminal Revision Case is allowed.

Consequently, connected Criminal Miscellaneous Petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Note: Issue order copy on 12.08.2024.

To

1. The Principal District and Sessions Judge,
Namakkal.

2. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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