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Crl.R.C.No.1834 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM :

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1834 of 2024

and

Crl.M.P.Nos.15101 & 15102 of 2024

1.HNS Chit Pvt. Ltd.,
No.159, Peters Road,
Gopalapuram, Chennai – 86
A1 company represented by
A2/R.J.Surendranath

2.R.J.Surendranath

... Petitioners/A1 & A2

Versus

State Rep by
Inspector of Police,
Economic Offence Wing-II,
Guindy, Chennai.

... Respondent

PRAYER : Criminal Revision petition filed under Sections 438 r/w. 442 of Bharatiya Nagarik Suraksha Sanhita, 2023 praying to set aside the order passed in Crl.A.No.76 of 2024 on the file of the VII Additional Judge, City Civil Court, Chennai dated 05.09.2024 and consequently direct the learned VII Additional Judge, City Civil Court to restore the case in Crl.A.No.76 of 2024.



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For Petitioners : Mr.S.Thiruveugadan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This revision petition has been filed seeking to set aside the order passed in Crl.A.No.76 of 2024 on the file of the VII Additional Sessions Judge, City Civil Court, Chennai dated 05.09.2024 and consequently direct the learned VII Additional Sessions Judge, City Civil Court to restore the case in Crl.A.No.76 of 2024.

2.The petitioners/accused 1 & 2 in C.C.No.8628 of 2021 was convicted by the trial Court by judgment dated 05.01.2024 and sentenced 1st petitioner/A1 to pay a fine amount of Rs.10,000/- for offence under Section 406 of I.P.C., to pay a fine of Rs.20,000/- for offence under Section 420 of I.P.C. and to pay a fine of Rs.5,000/- for offence under Section 76(1) r/w 4(1) of Chit Fund Act. The 2nd petitioner/A2 was sentenced to undergo two years simple imprisonment and to pay a fine of Rs.10,000/- for offence under



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Section 406 of I.P.C., three years simple imprisonment and to pay a fine of Rs.20,000/- for offence under Section 420 of I.P.C. and one year simple imprisonment and to pay a fine of Rs.5,000/- for offence under Section 76(1) r/w 4(1) of Chit Fund Act. Aggrieved against the conviction, the petitioners preferred an appeal in Crl.A.No.76 of 2024 before the learned VII Additional Sessions Judge, Chennai. The Sessions Judge, by judgment dated 05.09.2024 dismissed the appeal for non prosecution. Further, it had also recorded that notice to Public Prosecutor not given. Hence, the petitioners prayed to set aside the impugned order and sought a direction to restore Crl.A.No.76 of 2024 on the file of VII Additional District and Sessions Court, Chennai, thereafter the appeal to be heard on merits.

3.The learned counsel for petitioners submitted that at the time of filing an appeal Public Prosecutor copy already annexed and hence notice is not required. Further, appeal is listed initially before the Principal Sessions Judge, Chennai, where the Public Prosecutor took notice thereafter the case was made over to VII Additional Sessions Judge, Chennai. Hence, notice has



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been taken by the Public Prosecutor and the appeal is well informed to the Public Prosecutor. In view of the same, the finding of the Lower Appellate Court that notice was not given to Public Prosecutor would not be correct. He further submitted that learned counsel for petitioners not present for one hearing. Further submitted that the appeal is of the year 2024. For the mistake of the counsel, the petitioners should not be penalised and their statutory right of hearing the appeal cannot be short circuited. Hence, prayed for setting aside the impugned order.

4.Mr.A.Damodaran, learned Additional Public Prosecutor takes notice for the respondent. He fairly submitted that he has got no serious objection in restoring the appeal.

5.It is seen that the appeal got dismissed on technical ground for non appearance of the petitioners and not on merits. Finding that the appeal being a statutory right and the petitioners to be given an opportunity to putforth their grounds, the case to be decided on its own merits, this Court set



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asides the impugned order dated 05.09.2024 passed by the learned VII Additional Sessions Judge, City Civil Court, Chennai and the appeal in Crl.A.No.76 of 2024 is restored on the file of VII Additional Sessions Court, Chennai. The Lower Appellate Court is directed to consider the petitioners' appeal and pass orders on merits.

6.Accordingly, the Criminal Revision Case is allowed.

Consequently, connected Criminal Miscellaneous Petitions are closed.

29.10.2024

Index : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

Neutral citation : Yes/No

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M.NIRMAL KUMAR, J.

rsi

To

1.The VII Additional Sessions Judge,
City Civil Court,
Chennai.

2.The Inspector of Police,
Economic Offence Wing-II,
Guindy, Chennai.

3.The Public Prosecutor,
High Court, Madras.

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and

Crl.M.P.Nos.15101 & 15102 of 2024

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