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Crl.R.C.No.841 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.841 of 2024

K.Parameshwaran

... Petitioner

Vs.

K.P.Arhatanari

... Respondent

PRAYER : Criminal Revision filed under Sections 397 and 401 of the code of Criminal Procedure, to set aside the order of dismissed as non-prosecution passed in C.A.No.61 of 2020 dated 05.04.2023 on the file of the learned Principal Sessions Judge, Erode, against the conviction imposed in judgment dated 22.01.2020 made in S.T.C.No.701 of 2018 on the file of the learned Judicial Magistrate cum Fast Track Court No.II, Erode, by allowing the Criminal Revision Petition.

For Petitioner : Mr.N.Chinnaraj

For Respondent : Mr.C.Ramaraj

ORDER

The Criminal Revision Case is filed against the judgment dated 05.04.2023 passed in C.A.No.61 of 2020 by the learned Principal Sessions



Crl.R.C.No.841 of 2024

Judge, Erode, which was filed against the conviction imposed vide judgment dated 22.01.2020 made in S.T.C.No.701 of 2018 by the learned Judicial Magistrate cum Fast Track Court No.II, Erode.

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 r/w. 142 of Negotiable Instrument Act before the learned Judicial Magistrate, Fast Track Court No.II, Erode, which was taken on file in S.T.C.No.701 of 2018. The trial Court convicted the petitioner, against which, appeal was filed in C.A.No.61 of 2020 before the learned Principal Sessions Judge, Erode, however, the same was dismissed as non-prosecution on 05.04.2023. He would further submit that since the petitioner had undergone medical treatment, 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 impugned judgment passed by the Appellate Court, since



Crl.R.C.No.841 of 2024

without providing opportunity to the petitioner, the case was dismissed as non-prosecution on 05.04.2023.

3. The learned counsel appearing for the respondent has no serious objection to the submission made by the learned counsel appearing for the petitioner.

4. Considering the submissions made by the learned counsel appearing for the petitioner and the respondent and the fact that the appeal filed by the petitioner in C.A.No.61 of 2021 was dismissed as non-prosecution on 05.04.2023, in order to give one opportunity to the petitioner, this Court is inclined to set aside the judgment dated 05.04.2023 passed in C.A.No.61 of 2020 by the learned Principal Sessions Judge, Erode and accordingly, it is set aside on the following terms:

(i) the petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondent and a proof to that effect shall be



Crl.R.C.No.841 of 2024

produced before the learned Principal Sessions Judge, Erode.

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(ii) On production of proof by the petitioner, the learned Principal Sessions Judge, Erode, is directed to restore C.A.No.61 of 2020 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.

05.06.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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Crl.R.C.No.841 of 2024

WEB COPY

To

1. The learned Principal Sessions Judge, Erode.
2. The learned Judicial Magistrate cum Fast Track Court No.II, Erode



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Crl.R.C.No.841 of 2024

M.DHANDAPANI, J.

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Crl.R.C.No.841 of 2024

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