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CrI.R.C.No. 1717 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.1717 of 2024

G.Partheepan

... Petitioner

Vs.

Allimuthu
Respondent

...

PRAYER: Criminal Revision Petition filed under Section 438 & 442 of BNSS, 2023/ 397 & 401 of Cr.P.C., 1973, praying to set aside the order dated 31.07.2024 in S.T.C.No.27 of 2023, on the file of learned Judicial Magistrate, Fast Track Court, Attur, Salem District.

For Petitioner : Mr.K.Shakespeare

ORDER

The petitioner / complainant, aggrieved against the order passed by the Trial Court, dismissing the petitioner's complaint for non-prosecution on 31.07.2024 had filed the present revision.



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2. The contention of the petitioner is that the petitioner as complainant filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act. The case was filed on 31.01.2023. Thereafter, the summons were ordered on 28.02.2023. The petitioner had taken steps, summons served and the respondent had appeared before the Trial Court on 18.03.2023 and the case was posted on 20.07.2023 for further questioning. Thereafter, posted for evidence and in the meanwhile, it was referred to lok adalat and thereafter, it was posted for evidence and again to lok adalat. Finally, after recording the evidence, the case was posted for questioning of the respondent under Section 313 Cr.P.C.

3. At this stage, the respondent had failed to appear before the lower Court and hence, warrant was issued. The complainant had been appeared before the Trial Court in all hearing dates. In the meanwhile, for introduction of new criminal codes, there was boycott before the Trial Court, hence, despite the complainant appeared, the process would not be taken. Hence, it was not entertained and finally, the case has been dismissed for non-prosecution on 31.07.2024. Hence, filed a petition.



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4. The contention of the petitioner is that substantial justice would be only after full pledged trial and not by dismissal of the complaint on technical grounds. Further, the case was not adjourned for the presence of the petitioner. The respondent had failed to appear and non-bailable warrant was pending. In this case, trial is at the penultimate stage. After questioning the respondent, arguments to be advanced and after 28 hearings of proceedings, the case was dismissed. In this case, the complaint has been dismissed for technical grounds. Hence, this Court dispense with the notice to the respondent finding that the case has been filed on 31.01.2023 and it is an old case and the trial is at the penultimate stage, warranting respondent the Non-bailable warrant is pending against him.

5. In view of the same, this Court set aside the impugned order directing the Trial Court to take the case in STC.No.27 of 2023 on its file and the petitioner to file process application, take steps to get execute the non-bailable warrant against the respondent and the Trial Court question the accused and to conclude the trial within a period of three months from the date of receipt of a copy of this order.



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6. Accordingly, this Criminal Revision Case is allowed with the above observations.

15.10.2024

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Internet: Yes / No

Speaking / Non-speaking order

Nuetral Citation : Yes / No



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To
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1. The Judicial Magistrate,
Fast Track Court, Attur,
Salem District.

2. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

KKN

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