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Crl.R.C.No.192 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.192 of 2023

C.Arumugam

... Petitioner

Vs.

Sudhakar

... Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C, praying to set aside the judgement dated 22.02.2021 made in S.T.C.No.137 of 2016 on the file of the learned Judicial Magistrate Court No.II, Mettur, Salem District and to restore the above complaint on file and decide the same on merits by allowing the above Revision.

For Petitioner : Mr.C.Prabakaran

For Respondent : No appearance

ORDER

This Criminal Revision Case has been filed against the order dated 22.02.2021 passed by the learned Judicial Magistrate Court No.II, Mettur, Salem District in S.T.C.No.137 of 2016.



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2. The case of the petitioner is that, he filed a complaint u/s 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') before the Judicial Magistrate Court No.II, Mettur, Salem District in S.T.C.No.137 of 2016. He continuously appeared before the trial court till 26.09.2019 and thereafter, for two occasions, he does not appear before the trial court. Thereafter, due to Covid-19 pandemic situation, he was unable to appear before the trial court, thereby he filed 256 petitions and the said petitions were allowed, however, on 22.02.2021, since the petitioner not appeared before the trial court, the trial court same dismissed the complaint for non payment of process fee u/s 204 Cr.P.C. vide impugned order dated 22.02.2021. Challenging the same, the petitioner has filed the present revision before this court.

3. The learned counsel appearing for the petitioner submitted that no complaint can be disposed without providing opportunity, however, in the present case, due to Covid-19 pandemic situation, the petitioner not appeared before the trial court. However, without considering the same, the trial court dismissed the complaint, which is wholly unsustainable.



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However, on instructions, the learned counsel submitted that, the petitioner is ready to pay reasonable costs either to the legal services authorities or to the respondent. Accordingly, he prays for allowing the revision.

4. Though name of the learned counsel for the respondent was printed in the cause list, however, no one appeared on behalf of the respondent. Considering the pendency of this revision, this Court is inclined to dispose of this revision based on the materials available on record.

5. Admittedly, the petitioner filed a complaint u/s 138 of the Act as against the respondent in S.T.C.No.137 of 2016 before the Judicial Magistrate No.II, Mettur. It is seen that, from the year 2016, the petitioner appeared before the trial court till 26.09.2019, however, thereafter, due to Covid - 19 pandemic situation, he was not able to appear before the trial court upto 2021. Thereafter, the trial court dismissed the said complaint u/s 204 Cr.P.C. vide impugned order dated 22.02.2021. However, this court is of the view that the trial court ought



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to have given one more opportunity to adjudicate his case. In the present case, such an opportunity was not given to the petitioner, which is a clear violation of principles of natural justice, thereby, this Court is inclined to set aside the impugned order.

6. In view of the above, the order passed by the learned Judicial Magistrate Court No.II, Mettur, Salem District in S.T.C.No.137 of 2016 dated 22.02.2021 is set aside subject to the payment of Rs.10,000/- (Rupees Ten Thousand Only) by the petitioner to the District Legal Services Authority, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Revision Case is allowed.

11.07.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Judicial Magistrate Court No.II, Mettur, Salem District.



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M.DHANDAPANI, J.

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