



CrI.R.C.No.264 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.264 of 2023

V.C.Kalaivanan

... Petitioner

Vs.

U.Velmurugan

... Respondent

PRAYER : Criminal Revision filed under Section 397 r/w 401 of the code of Criminal Procedure, to set aside the order dated 29.06.2022 in C.C.No.386 of 2016 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur and to restore the compliant in C.C.No.386 of 2018.

For Petitioner : Mr.M.Boopathy

For Respondent : No appearance

ORDER

This criminal revision case is filed against the order dated 29.06.2022 passed in C.C.No.386 of 2018 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur.



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2. The learned counsel appearing for the petitioner submits that the respondent is arrayed as accused in the complaint instituted by the petitioner under Section 138 r/w. 142 of Negotiable Instruments Act before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, which was taken on file in C.C.No.386 of 2018. However, the same was dismissed as non-prosecution on 29.06.2022. He would further submit that since the petitioner's father passed away on 22.06.2021, 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 District Legal Services Authority, Chennai and this Court may set aside the impugned order passed by the trial Court, since without providing opportunity to the petitioner, the case was dismissed as non-prosecution on 29.06.2022.

3. Though the name of the learned counsel for the respondent has been printed in the cause list, none appeared on behalf of him.



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4. Considering the submissions made by the learned counsel appearing for the petitioner and the fact that the petition filed by the petitioner in C.C.No.386 of 2018 was dismissed as non-prosecution on 29.06.2022, in order to give one opportunity to the petitioner, this Court is inclined to set aside the order dated 29.06.2022 passed in C.C.No.386 of 2018 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur 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 District Legal Services Authority, Chennai and a proof to that effect shall be produced before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur.

(ii) On production of proof by the petitioner, the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, is directed to restore C.C.No.386 of 2018 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.



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5. Accordingly, the Criminal Revision Case is allowed.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

The learned Judicial Magistrate,
Fast Track Court (Magisterial Level),
Alandur.



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M.DHANDAPANI, J.

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