



Crl.A.No.110 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.110 of 2024

Lesslie Manuel Nayagam

... Appellant

Vs.

Nitin Parasuram

... Respondent

PRAYER: Criminal Appeal is filed under Section 378(4) of the Code of Criminal Procedure, to set aside the order dated 30.10.2023 passed in S.T.C.No.1927 of 2022 on the file of the learned Metropolitan Magistrate, Fast Track Court-I, Egmore @ Allikulam, Chennai.

For Petitioner : Mr.R.Abdul Mubeen

ORDER

The appellant/complainant has filed a private complaint under Section 138 of N.I.Act against the respondent was taken on file in S.T.C.No.1927 of 2022. The lower Court by order dated 30.10.2023 had dismissed the complaint invoking Section 204(4) r/w 256 of Cr.P.C., for non prosecution.

**2.** The contention of the petitioner is that the respondent is due to tune



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of Rs.1,50,000/-, the petitioner by following statutory procedure has filed a private complaint. The case has been taken on file and the bailable warrant has been issued against the respondent on 27.09.2022. Thereafter, the petitioner has taking steps to execute the bailable warrant by that time next hearing date falls informing of the same, a fresh bailable warrant is also taken that took some time. On 30.10.2023, hearing date not properly noted, for that reason, the petitioner could not appear on that day neither the petitioner nor his counsel appeared. Hence the case was dismissed. Due to which, great prejudice caused. Further submitted that substantial and real justice would be only after the trial.

**3.** Considering the submissions, this Court finds, bailable warrant pending and the respondent is yet to appear in the case and the order of dismissal is not passed on merit, but only on technical grounds, hence no notice required to the respondent. In view of the same, the order of the trial Court dated 30.10.2023 is hereby set aside and the trial Court is directed to restore the complaint on file to proceed with the complaint and dispose it on merits.



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4. With the above directions, this Criminal Revision Case is allowed.

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Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

To

The Metropolitan Magistrate, Fast Track Court-I, Egmore @ Allikulam,  
Chennai.



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M.NIRMAL KUMAR, J.

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