



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2024

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.A(MD) No.174 of 2014

R.C.Ramalingam Pillai

... Appellant/Complainant

-VS-

P.Ramasamy

... Respondent/Accused

PRAYER : Criminal Appeal filed under Section 374(2) of Criminal Procedure Code praying this Court to call for the records in C.C.No. 191 of 2007, dated 21.4.2014, on the file of Judicial Magistrate, Musiri and to set aside the same.

For Appellant : No appearance

For Respondent : No appearance

JUDGMENT

There is no appearance on behalf of the appellant/Complainant.



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2.The Criminal Appeal is preferred against the order of acquittal passed by the trial Court in a private complaint initiated under Section 138 of the Negotiable Instruments Act, for non prosecution.

3.According to the complaint, his private complaint was taken on file in C.C.No.191 of 2007. Since there is long delay in disposal of the complaint, the complainant was not present on 21.04.2014. The trial Court, recording the absence, dismissed the complaint by acquitting the accused under Section 256(1) of Cr.P.C. Thereore the complainant seeks interference of this Court to set aside the order of dismissal.

4.A perusal of the order impugned in this Criminal appeal, this Court finds that the complaint was dismissed not for the absence o the complainant for one occasion, but, for three consecutive hearings, there was no representation on behalf of the complainant. Court notice was also taken on the complainant and despite service of notice, there is no appearance on behalf of the complainant either in person or through counsel. This warranted the trial Court to invoke the



power under Section 256(3) of Cr.P.C to dismiss the complaint. For better appreciation of the case, the order impugned herein is extracted below:

'Complainant absent. No representation. Accused present. Complainant continuously absent for three previous hearing. Court notice also served as complainant on 25.10.2013. Even though he is not ready to appear before this Court. Hence this complaint is dismissed under Section 256(1) Cr.P.C.

5.The reasoning stated in the grounds of appeal, *per se*, is not in consonance with the Court finding. The complaint which was taken on file in the year 2017, has not been properly pursued by the complainant. So he cannot take advantage of his own absence and keep the matter pending. Even today, the conduct of the complainant in not being represented through counsel, would clearly show that he is not interested in pursuing the complaint.

6.For the aforesaid reasons, the Criminal Appeal stands dismissed.

01.03.2024



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NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To:

- 1.The Judicial Magistrate,
Musiri.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN,J.

vsn

JUDGMENT MADE IN
CRL.A(MD) No.174 of 2014

01.03.2024