



WEB COPY



Crl.A.(MD).No.342 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.10.2024

DELIVERED ON : 19.11.2024

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.A.(MD).No.342 of 2023

I.Immanuvel

... Appellant/Complainant

Vs.

T.Blesson

... Respondent/Accused

Prayer: Criminal Appeal has been preferred under Section 378(4) Cr.P.C., to call for the records in S.T.C.No.607 of 2020, on the file of Learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instruments Act, Tirunelveli and set aside the order, dated 08.12.2022, dismissing the complaint under Section 256 Cr.P.C.

For Appellant : Mr.A.Sivasubramanian

For Respondent : Mr.G.S.Senthilkumar

J U D G M E N T

This Criminal Appeal has been filed by the appellant to set aside Judgment made in S.T.C.No.607 of 2020, on the file of Learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instruments Act, Tirunelveli, dated 08.12.2022,



WEB COPY



Crl.A.(MD).No.342 of 2023

2.The facts in brief:

The accused took Cranes from the complainant on monthly rent basis. The rent was fixed at Rs.30,000/- per month. There was written agreement between the parties. The accused was regularly paying the rent for the first and second agreement. For subsequent period, he issued a cheque on 06.04.2017 drawn on State Bank of India, Kalkulam Branch. It was presented for payment on 04.07.2017, came to be returned as insufficient fund. That was intimated to the accused. Later, he issued another cheque for Rs.3,50,000/- on 20.05.2017 drawn on Panjab National Bank, Sivagangai. It was presented for payment through the complainant's Banker. On 21.07.2017, it came to be returned as account blocked. After completing the statutory formalities, the private complaint has been filed.

2.The trial Court by the order dated 08.12.2022, dismissed the complaint under Section 256 of Cr.P.C. stating that in spite of repeated adjournments, the complainant did not come forward to prosecute the complaint. Noting that the matter is pending from the year 2017, it dismissed the complaint for non prosecution.

3.Against which this appeal is preferred by the complainant.



WEB COPY

4.By the order dated 25.09.2024, the appellant was directed to pay the cost of Rs.1,000/- to the respondent. Cost was paid by the appellant and received by the respondent. Compliance was also reported before this Court.

5.The learned counsel for the appellant would submit that originally the accused failed to execute bond and later non bailable warrant was issued for the hearing on 23.12.2022. Accused filed petition to recall the warrant and the case was advanced to 08.12.2022. At that time, he was unable to present before the Court. So the reason assigned by the trial Court that for more than 6 years the complainant did not appear, is not correct on record.

6.Considering the above said only the cost of Rs.1,000/- was ordered to be paid by the appellant. Since the complainant paid the cost, the order of dismissal for non prosecution passed by the trial court is hereby set aside and it is ordered to be restored to the file. The parties shall appear before the trial court on receipt of notice. After the appearance of parties, the trial court is directed to proceed the matter in accordance with law.



Crl.A.(MD).No.342 of 2023

7. Accordingly, this criminal appeal stands allowed.

19.11.2024

WEB COPY

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
TM

To

1. The Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instruments Act, Tirunelveli.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.A.(MD).No.342 of 2023

G.ILANGOVAN, J

TM

Crl.A.(MD).No.342 of 2023

19.11.2024