



Crl.A(MD)No.857 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.10.2024

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.A(MD)No.857 of 2024

Pa.E.Kannan

... Appellant/Complainant

Vs.

1.S.Subbulakshmi

... Respondent/Accused

**2.Senior Superintendent of Post Officer,
Madurai Division,
Madurai – 625 002.**

... 2nd Respondent

(R2 is suo motu impleaded vide order dated 05.04.2024 in Crl.M.P.(MD).No. 972 of 2024 in Crl.A.(MD).No.SR2854 of 2024)

Prayer : This Appeal is filed under Section 378(1) of Cr.P.C., to call for the records and to set aside the Judgment passed in S.T.C.No.995 of 2023, dated 08.09.2023 on the file of the learned Judicial Magistrate No.II, Karur.

For appellant : Mr.R.Mathiyalagan

**For R-1 & R-2 : Mr.S.Gokulraj for R1
Mr.K.Govindarajan for R2
Deputy Solicitor General of India**



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J U D G M E N T

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Heard the learned Counsel appearing for the appellant and the learned counsels appearing for the respondents.

2.The facts in brief:

The private complaint was filed by the appellant herein against the respondent under Section 200 Cr.P.C., stating that the respondent herein borrowed a sum of Rs.4,00,000/- on 15.02.2022, for his routine family expenses. To discharge the same he issued a cheque dated 15.03.2022. It was presented for payment through the banker of the complainant, which came to be returned due to insufficient funds. Therefore, after completing the statutory formalities, he filed the present complaint against the first respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

3.The trial Court took cognizance of the offence and issued summon to the accused. But on the date of hearing namely on 08.09.2023, he the complainant remained absent. There was no representation for the complainant. Similarly accused was also absent. Petition under Section 317 Cr.P.C. was filed. Due to the absence of the complainant, complaint was



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dismissed for non prosecution. Against which, this appeal is preferred by the appellant.

4.The learned counsel for the appellant would submit that on the date of hearing namely on 08.09.2023, he was unable to appear before the trial Court and his counsel also could not appear. On that ground the order was passed by the trial Court. Now he is ready to compensate the respondent for the inconvenience caused to him. The respondent's counsel also ready to accept the same. Accordingly, Rs.1,000/- was ordered to be paid to the respondent. Cost paid. That was also accepted by the respondent. Memo filed. Recorded.

5.In view of the above said, order of dismissal passed by the trial Court is hereby set aside. There shall be a direction to the trial Court to restore the complaint on file and proceed in accordance with law. Let the parties appear before the trial Court within a period of fifteen days from the date of receipt of a copy of this order, if failed, the trial court shall issue notice to the parties by fixing a particular date for their appearance.



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6. With the above said directions, this criminal appeal stands
allowed.

29.10.2024

Index : Yes/No
Internet : Yes/No
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To

1. The Judicial Magistrate No.II, Karur.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA,J.

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