



Crl.A.(MD) No.113 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.A.(MD) No.113 of 2024

V.Kalyanaraman

...Appellant/
Complainant

Vs.

K.R.Nachiappan

...Respondent/
Accused

PRAYER : This Criminal Appeal is filed under Section 378 of Criminal Procedure Code, to call for records pertaining to the judgment/order of acquittal in C.C.No.1278/2021 dated 24.11.2023 on the file of the learned Judicial Magistrate No.II, Tiruchirappalli and set aside the same.

For Petitioner : Ms.R.Sridevi



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ORDER

This Criminal Revision Case has been filed by the petitioner/complainant as against the dismissal order passed by the learned Judicial Magistrate No.II, Tiruchirappalli in C.C.No.1278 of 2021, dated 24.11.2023.

2. In this Criminal Appeal, notice as well as private notice was ordered on 13.02.2024 and the private notice was returned as “unserved/Door Locked”. Despite notice being served on the respondent, he has not chosen to appear in person or through any counsel.

3. The learned counsel appearing for the petitioner/complainant submitted that the petitioner/complainant has filed a private complaint against the respondent/accused for the offence under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate No.II, Tiruchirappalli and the same was taken on file in C.C.No.1278 of 2021. However, the learned trial Court dismissed the complaint under Section



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204 of Cr.P.C. and acquitted the accused stating that 'complainant called absent' and 'no representation'. Aggrieved over the said order, the present Criminal Appeal is filed.

4. When the matter was taken up for hearing, learned counsel for the petitioner/complainant has produced an order of this Court passed in Cr.R.C.No.682 of 2013 dated 24.10.2019, wherein, para 6 reads as follows:

“6.The learned counsel appearing for the petitioner/complainant has also produced a order of this Court passed in Crl.R.C.No.181 of 2015 dated 22.04.2015, wherein, para 4 reads as follows:

“4.....However, the complaint has not been dismissed for non appearance of the petitioner under Section 256 of the Code, but the same was dismissed by the learned Magistrate only under Section 204(4) of the Code of Criminal procedure, on account of non-payment of process fee for issuance of summons to the accused. On such a trivial ground, in my considered opinion, the valuable right of the petitioner to have an effective contest cannot be deprived of.....”



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5. Considering the facts and circumstances of the case, this criminal appeal is allowed and the order of the learned Judicial Magistrate No.II, Tiruchirappalli, in C.C.No.1278 of 2021, dated 24.11.2023, is set aside and the matter is remanded back to the concerned Judicial Magistrate. However, the learned Judicial Magistrate No.II, Tiruchirappalli, is directed to take up the matter immediately and dispose the same within a period of six months from the date of receipt of a copy of this order.

04.03.2024

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

PKN

To

- 1.The learned Judicial Magistrate No.II,
Tiruchirappalli.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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VIVEK KUMAR SINGH, J.

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