



Crl.R.C.(MD) No.267 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2024**

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD) No.267 of 2024

1.Petchimuthu

2.Kartheesan

...Petitioners

Vs.

The State Rep. by

The Sub Inspector of Police,

Kulasekaranpattinam Police Station,

Thoothukudi District.

...Respondent

PRAYER : Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed by the learned Principal Sessions Judge, Thoothukudi, in Crl.A.No.103 of 2022 dated 03.11.2023, dismissing the appeal for default filed against the judgment in C.C.No.34 of 2016 passed by the learned Judicial Magistrate, Tiruchendur, dated 30.09.2022 and set aside the same and allow the Criminal Revision Case.

For Petitioners : Mr.R.Ponkarthikeyan

For Respondent : Mr.M.Muthumanikkam

Government Advocate (Crl. Side)



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ORDER

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Challenging the order dated 03.11.2023 passed by the learned Principal Sessions Judge, Thoothukudi, in Crl.A.No.103 of 2022, the petitioners have come forward before this Court with the present Criminal Revision Petition.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The learned counsel for the petitioners would submit that the petitioners are accused in Crl.A.No.103 of 2022 on the file of the Principal Sessions Judge, Thoothukudi and the said appeal was scheduled for hearing on 03.11.2023. On that day, the petitioners did not appear before the learned Principal Sessions Judge, Thoothukudi and their counsel also could not able to attend the Court. Nevertheless, the same was dismissed for default by the learned Principal Sessions Judge, Thoothukudi. The learned counsel further submitted that the Appellate Court ought to have considered that when an appeal is taken up for hearing, if either the petitioners/appellants or their counsel does not appear, the Court should not proceed straightaway to consider and dispose of the



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appeal, but to provide further opportunity to the petitioners/appellants by way of appointing a legal aid counsel to argue the appeal on their behalf and only after having heard the arguments on behalf of the petitioners/appellants, the Court should proceed to dispose of the appeal on merits and hence, prayed for setting aside the order passed by the learned Principal Sessions Judge, Thoothukudi, in Crl.A.No.103 of 2012, dated 03.11.2023.

4. The learned counsel for the petitioners would further submit that they have a good case before the Court below and they may be given a last chance to contest their case on merits and prays to allow this Criminal Revision Case.

5. In support of his contention, the learned counsel for the petitioners has relied upon the cases of the Hon'ble Supreme Court in the case of ***Madan Lal Kapoor Vs. Rajiv Thapar in Crl.A.No.1150 of 2007, Taj Mohammad Vs. State of U.P. reported in 2023 LiveLaw (SC) 689 and K.Muruganandam & Others Vs. State of TN reported in 2022 (2) Crimes (SC) 122***, wherein, the Hon'ble Supreme Court in the cases as stated supra, had reiterated the very same principles.



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6. The learned Government Advocate (Crl. side) appearing on behalf of the respondent/State submitted that the petitioners have not appeared continuously for the hearings before the Appellate Court and hence, the learned Principal Sessions Judge, had dismissed the Criminal Appeal for default on 03.11.2023. He further submitted that he has no objection in allowing the petition but however, there may be a direction to the petitioners/accused to appear regularly before the Court below and contest the case without any further delay.

7. The matter relates to administration of criminal justice. As held by the Hon'ble Apex Court, a criminal matter cannot be dismissed for default and it must be decided on merits. Only on that ground the revision deserves to be allowed.

8. This Court taking into account, the nature of relief sought for by the petitioners and in order to secure the ends of justice and in the light of the decisions of the Hon'ble Apex Court as stated supra, an opportunity can be afforded to the petitioners/accused to put-forth their case before the Court below. Accordingly, the Criminal Revision Case is allowed and the order passed by the learned Principal



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Sessions Judge, Thoothukudi, in Crl.A.No.103 of 2022 dated 03.11.2023 is set aside and the same is restored to file. The learned Principal Sessions Judge, Thoothukudi, is directed to dispose of the case in Crl.A.No.103 of 2022 pending on his file and to decide the matter on merits and in accordance with law, as expeditiously as possible, atleast within a period of four months from the date of receipt of a copy of this order.

11.03.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes / No
RM/DP

To

- 1.The Principal Sessions Judge,
Thoothukudi,
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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VIVEK KUMAR SINGH, J.

RM/DP

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