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Crl.R.C.No. 292 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2025

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No. 292 of 2025

T.S.Boobalan

...Petitioner

Vs.

Akshya Bricks & Blocks
Partnership Firm
Rep. by its Partner Mr.K.Venugopal
15/1, Athipalayam Road,
Chinnavedampatty,
Coimbatore-641006.

..Respondent

Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.PC and under Section 438 r/w 442 of BNSS to set aside the judgment dated 06.02.2024 passed in Criminal Appeal No. 75 of 2017 on the file of the V Additional District and Sessions Judge, Coimbatore, confirming the judgment dated 20.03.2017 passed in C.C.No. 235 of 2012 on the file of the Judicial Magistrate(FTC No.1 at Magisterial Level), Coimbatore.

For Petitioners : Mr. B.Kavitha

For Respondent :



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ORDER

This Criminal Revision Petition has been filed against the judgment passed in Crl.A.No.75 of 2017 dated 06.02.2025 by the V Additional District and Sessions Judge, Coimbatore, thereby dismissing the appeal for default and confirming the order of conviction and sentence imposed by the trial Court in C.C.No.235 of 2012 dated 20.03.2017 by the Judicial Magistrate (FTC-I), Coimbatore, for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. A perusal of the records reveals that after a full-fledged trial, the trial Court convicted the petitioner and sentenced him to undergo six months simple imprisonment and to pay a compensation of Rs.70,000/- within two months from the date of the judgment, in default, to undergo simple imprisonment for a further period of two months. Aggrieved by the said judgment, the petitioner filed an appeal, which came to be dismissed for default.



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3. It is pertinent to note that an appeal is a statutory right conferred on an accused, and once such an appeal has been preferred, the same is required to be disposed of on merits. The appellate Court does not have the power to dismiss a criminal appeal for default of appearance of the appellant or his counsel, unlike in civil proceedings where dismissal for default is permissible. Even in the absence of the appellant, the appellate Court is duty bound to go through the records of the trial Court, examine the correctness of the conviction and sentence imposed, and decide the appeal on merits. In the present case, instead of following the settled legal position, the appellate Court dismissed the appeal for default without any adjudication, thereby depriving the petitioner of an effective opportunity to challenge the conviction and sentence. Such a course adopted by the appellate Court is unsustainable in law.

4. Therefore, this Court is inclined to grant one more opportunity to the petitioner to pursue his appeal. Accordingly, the judgment passed in Crl.A.No.75 of 2017 dated 06.02.2025 by the V Additional District and Sessions Judge, Coimbatore, is set aside. The matter is remanded



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back to the appellate Court. The appellate Court is directed to take the appeal on file and dispose of the same, after affording sufficient opportunity to both the petitioner and the respondent, in accordance with law.

5. With the above directions, this Criminal Revision Petition is allowed.

20.08.2025

Index : Yes/No
Neutral citation : Yes/No
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To

1. The V Additional District and Sessions Judge, Coimbatore.
2. The Judicial Magistrate (FTC-I), Coimbatore,



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G.K.ILANTHIRAIYAN, J.

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