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CrI.A.No.246 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.246 of 2022

Sujatha

... Appellant

Vs.

Thangaraj

... Respondent

Prayer: Criminal Appeal is filed under Section 378(4) of Code of Criminal Procedure, to allow the above Criminal Appeal by setting aside the order dated 25.11.2021 passed in C.C.No.200 of 2019 on the file of the Court of the Judicial Magistrate, Fast Track Court (Magisterial Level) at Tiruvannamalai.

For Appellant : Mr.C.Vigneswaran for
Mr.K.Govi Ganesan

For Respondent : No Appearance



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JUDGMENT

The appellant as a complainant filed a private complaint for offence under Section 138 of Negotiable Instruments Act, 1881 in C.C.No.200 of 2019 before the learned Judicial Magistrate, Fast Track Court (ML), Tiruvannamalai (Trial Court). The Trial Court by judgment, dated 25.11.2021 had dismissed the said complaint for non-prosecution. Against which, the present criminal appeal has been filed.

2.Private notice taken to the respondent returned for the reason 'Unclaimed' but intimation served and thereafter the name of the respondent printed in the cause list. Despite the same, no representation for the respondent either in person or by any counsel.

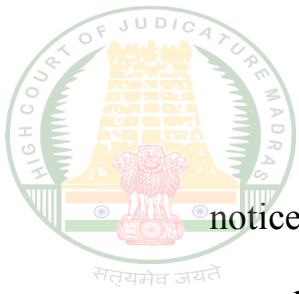
3.The contention of the appellant is that the respondent who was working as Cane Assistant in Kallakurichi Cooperative Sugar Mills, had borrowed a sum of Rs.3,50,000/- from the appellant and promised to repay the said amount within a short period. In discharge of the said liability, the



respondent issued a cheque bearing No.000103 drawn on Karur Vysya Bank, Perunthuraipattu Branch to the appellant which got dishonoured on 15.03.2019 for the reason 'Funds Insufficient'. Following the statutory provision, a complaint has been filed before the Trial Court.

4.The learned counsel for the appellant submitted that before the Trial Court, the appellant could not be appeared on certain days due to her health ailments which got aggravated after COVID-19. The appellant is a woman, her entire savings of Rs.3,50,000/- was wiped out due to non-payment of the respondent. The Trial Court without considering the health condition of the appellant, dismissed the complaint for non-prosecution recording her date of absence. He would further submit that only after ful-fledged trial, real justice can be rendered and not by dismissing the complaint on technical grounds, which is nothing but terminating the complaint by short-circuit method.

5.Considering the submissions and on perusal of the materials, it is seen that the complaint filed by the appellant dismissed on technical grounds, not on merits and that further keeping the revision for service of



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notice to the respondent would serve no purpose since the dismissal of the complaint is not on merits. No prejudice will be caused.

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6.In view of the above, the judgment, dated 25.11.2021 in C.C.No.200 of 2019 passed by the learned Judicial Magistrate, Fast Track Court (ML), Tiruvannamalai is set aside and the complaint in C.C.No.200 of 2019 is restored to the file of the Trial Court.

7.The Trial Court is directed to take the complaint on file, issue process, ensure the presence of the respondent, proceed with the trial and complete the trial within a period of four months from the date of receipt of a copy of this order. This four months is only an outer limit.

8.In the result, this criminal appeal stands allowed.

04.02.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

The Judicial Magistrate,
Fast Track Court (ML),
Tiruvannamalai.



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M.NIRMAL KUMAR, J.

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