



Crl.A.No.819 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 11.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.A.No.819 of 2011

K. Md. Hussain

...Appellant

Vs.

Ganapathy

...Respondent

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C, to set aside the order dated 03.11.2009 made in C.C.No.198 of 2007 on the file of the Judicial Magistrate - II Court, Walajapet.

For Appellant : Mr. T. P. Prabakaran

For Respondent : No Appearance

JUDGMENT

This case was of the year 2007. It can be seen from the adjudication that when the complainant was earlier regularly attending the Trial Court in the year 2007 and 2008, the accused was absent and Non Bailable Warrant (NBW) was pending. It is at this stage, when the NBW was not being



Crl.A.No.819 of 2011

WEB C

executed on 06.10.2009 and 03.11.2009, since the complainant was also absent and the NBW was also long pending and the complainant did not take any necessary steps to file the warrant process, the complaint was dismissed for default under Section 204(4) of the Code of Criminal Procedure on 03.11.2011. Aggrieved by which, the present appeal has been filed.

2. The learned counsel appearing on behalf of the appellant would submit that the complainant had taken steps on several occasions and even though the accused was present within the jurisdiction of the Ranipet Police Station, the NBW was not executed, unfortunately the complaint was dismissed. The learned counsel would also submit that the cheque amount is for a sum of Rs.12,48,834/- and the liability is towards the goods purchased. The interest of justice require granting of one more opportunity to the complainant.

3. The learned counsel Mr.D. Vikram Raj appeared on behalf of the respondent/ accused before this Court, therefore, the accused is very much available in the address and notice has been served on him. However, today the learned counsel did not appear at the time of final hearing.



CrI.A.No.819 of 2011

WEB COPY4. In view thereof, I am of the view that one more opportunity needs to be given to the complainant.

5. The next hearing of the case is fixed on 29.08.2025 before the Trial Court, therefore, the complainant shall appear before the learned Magistrate concerned on the said date. The Registry shall also send records if any received by this Court well before the said date. A process to execute the warrant shall also be filed on the said date without fail.

6. The Trial Court shall issue fresh NBW to the respondent/accused. The jurisdictional police shall also execute the warrant without fail. Even if the complainant knows about the present address or the whereabouts of the accused, the correct address shall also be mentioned in the process and the particulars such as contact number, if any shall also be filed by way of memo along with the process. Thereafter, depending on the execution of the warrant, the Trial Court is requested to proceed with the matter in accordance with law.



CrI.A.No.819 of 2011

WEB COPY

D.BHARATHA CHAKRAVARTHY, J.

7. In the result, this criminal appeal stands allowed, thereby the judgment dated 03.11.2019 passed in C.C.No.198 of 2007 on the file of the learned Judicial Magistrate - II, Walajahpet stands set aside and the C.C.No.198 of 2007 shall stand restored to the file of the learned Judicial Magistrate -II, Walajahpet.

11.08.2025

Neutral Citation: Yes/No
stn

To

1. The Judicial Magistrate -II,
Walajahpet.
2. The Public Prosecutor,
High Court of Madras.

CrI.A.No.819 of 2011