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Crl.A.No.228 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2025

CORAM :

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.A.No.228 of 2013

R.Shanthi

...Appellant/Complainant

vs.

Mrs.L.Sagitha Issabella

...Respondent/Accused

Criminal Appeal filed under Section 378 of Code of Criminal Procedure praying to set aside the order passed by the learned Judicial Magistrate, Fast Track Court Magisterial Level – II, Coimbatore dated 09.04.2012 passed in C.C.No.238 of 2011 and allow the appeal.

For Appellant : Mr.V.V.Sairam

For Respondent : Ms. E.Shobana
for Mr.N.Ponraj



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JUDGMENT

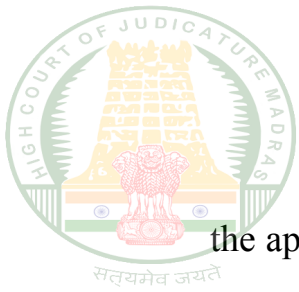
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The appeal challenges the dismissal of the complaint filed by the appellant/complainant in C.C.No.238 of 2011 dated 09.04.2012 on the file of the learned Judicial Magistrate, Fast Track Court, Magisterial Level – II, Coimbatore.

2. It is the case of the appellant/complainant that towards discharge of her liability, the respondent/accused issued a cheque for Rs.40,000/- (Rupees Forty Thousand only); that when the cheque was presented for collection, it was returned for the reason “Funds Insufficient,” and in spite of statutory notice, the respondent did not make the payment and hence liable for the offence under Section 138 of the Negotiable Instruments Act, 1881.

3. The trial Court dismissed the complaint for non - prosecution.

4. Mr.V.V.Sairam, the learned counsel for the appellant/complainant, submitted that the absence of the appellant is neither willful nor wanton; that



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the appellant had appeared before the learned Magistrate on several hearings and was absent only for a few hearings due to personal reasons; and that one more opportunity may be given to the appellant to prove her case before the Trial Court.

5. Ms.E.Shobana, the learned counsel for the respondent/accused, *per contra*, submitted that the Trial Court had given several opportunities to the appellant to examine herself as a witness; that the appellant was absent on 10.01.2012, 09.02.2012 and 14.02.2012 and thereafter a notice was sent on 14.02.2012 vide D.No.144/2012 and in spite of the notice, though a counsel appeared on 27.02.2012, she was absent once again on 28.03.2012 and also on 09.04.2012, when the matter was called for hearing and therefore, the Trial Court was justified in dismissing the complaint.

6. The order passed by the learned Judicial Magistrate, Fast Track Court, Magisterial Level – II, Coimbatore, reads as follows:



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“Complainant absent. No representation. Accused absent, petition filed and allowed. Case posted in this court from 30.11.11 and the complainant was present on certain hearings and represented by her counsel. As complainant was absent on 10.01.2012, 09.02.2012 and 14.02.2012, notice was sent from this Court vide D.No.144/2012, dated 14.02.2012. Then complainant was present on the next hearing i.e., 27.02.2012, and she was represented by counsel. Now she was absent on 28.03.2012 and there was no representation also. Today also complainant is absent and there is no representation. Hence, the complaint is dismissed and accused is acquitted.”

7. It is seen from the order that the appellant had not appeared before the Magistrate for nearly four hearings before a notice of hearing was sent to her. Even after the notice, though a counsel appeared and sought time, the appellant was absent on 28.03.2012 and once again on 09.04.2012. The appellant had shown scant regard for the Court Proceedings and had no interest in prosecuting the complaint. Hence, this Court finds no infirmity in the impugned order and hence it is confirmed.



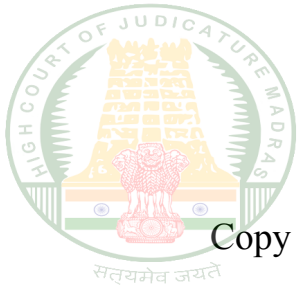
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8. Accordingly, the Criminal Appeal is dismissed.

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Index : yes/no
Neutral citation : yes/no
Speaking/Non-speaking order
dk



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The Judicial Magistrate,
Fast Track Court Magisterial Level – II,
Coimbatore.



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SUNDER MOHAN,J.

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