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Crl.A.No.733 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.733 of 2024

S.Mohamed Anas
S/o.Shaik Nizamudeen
Rep. by his Power Agent
Shaik Nizamudeed, S/o.Abdul Razak
New No.31/11, Balaji Tower
Puram Prakasam Road
Royapettah, Chennai - 600 014

... Appellant

Vs.

1.Rider Distributors
Represented by its Partners P.Karthik
S/o.Purushottam & Christina, W/o. Karthik
Having Office at No.7, Mahkavi Bharathiar Street
Ram Nagar Extn., Urapakkam West Chennai- 603 211

2. P.Karthik

3. Christina

... Respondents

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C. to set aside the



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acquittal judgment passed by the learned Metropolitan Magistrate, Fast Track Court -I at Allikulam, Chennai - 3, acquitting the accused/respondent for the offence under Section 138 of Negotiable Instruments Act for non-prosecution in C.C.No.3569 of 2019 dated 02.06.2023.

For Appellant	: Mr.R.Vivekananthan
	For Mr.T.R.Ravi
For Respondents	: Mr.M.S.Niranjhan

JUDGMENT

This Criminal Appeal has been filed by the appellant to set aside the judgment of acquittal passed by the learned Metropolitan Magistrate, Fast Track Court-I at Allikulam, Chennai - 3, acquitting the accused/respondents for the offence under Section 138 of the Negotiable Instruments Act for non-prosecution in C.C.No.3569 of 2019 dated 02.06.2023.

2. The case of the appellant is that the appellant's son had filed a complaint against the respondents herein before the Metropolitan Magistrate, Fast Track Court-I at Allikulam, Chennai in C.C.No.3569 of 2019 for the



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offence under Section 138 of the Negotiable Instruments Act. Subsequently,

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the respondents/accused filed a quash petition before this Court in Crl.O.P.No.23602 of 2019 on the ground that the cheque was not given by the Company and the same was given by Karthik/the 2nd respondent/2nd accused, from his personal banking by individual capacity and this Court by order dated 24.06.2022, quashed the complaint in C.C.No.3569 of 2019 as against the 1st and 3rd respondents and liberty was given to the appellant to proceed the case as against the 2nd respondent/Karthik alone. Subsequently the case in C.C.No.3569 of 2023 was posted before the trial Court on 02.06.2023 and notice was also issued to both the parties. Meanwhile, since the complainant/appellant's son went to abroad, he had given power of attorney to his father/appellant herein on 15.05.2023. However, the appellant/power of attorney holder of the complainant was unable to appear before the trial Court on the said date i.e. 02.06.2023 as he was bed ridden due ill health. The learned trial Judge, without considering the fact, simply dismissed the complaint itself



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for non prosecution by order dated 02.06.2023 and acquitted the accused.

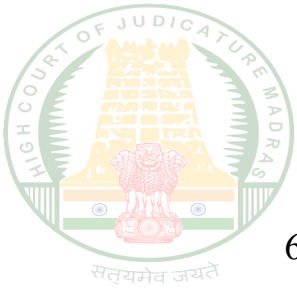
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Hence, the present appeal is filed before this Court.

3. The learned counsel for the respondents submitted that already the complaint against the respondents 1 and 3 was quashed by this Court and therefore, the appeal is not maintainable.

4. Heard and perused the materials available on record.

5. Though the complaint itself was dismissed by the trial Court for non prosecution on 02.06.2023, it is seen from the records that already the respondents/accused approached this Court by way of filing quash petition under Section 482 Cr.P.C. and this Court by order dated 24.06.2022 quashed the complaint as against the 1st and 3rd respondents giving liberty to prosecute the 2nd respondent alone. Further, direction has also been given to the trial Court to proceed against the 2nd respondent/2nd Accused and dispose of the complaint preferably within a period of six months. Therefore, the order passed by the Magistrate in C.C.No.3569 of 2019 dated 02.06.2023 is set aside.



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6. The learned Metropolitan Magistrate is directed to proceed with the complaint in C.C.No.3569 of 2019 as against the 2nd respondent alone and dispose of the case in accordance with law, within a period of six months from today.

7. With the above directions, this Criminal Appeal is allowed.

8. The appellant is directed to appear before the Magistrate on 29.04.2025 failing which, the order passed by the Magistrate itself shall stand confirmed.

17.04.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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Note: Issue Order Copy on 28.04.2025.

To

The Metropolitan Magistrate,

Fast Track Court-I at Allikulam, Chennai - 3



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P.VELMURUGAN. J.

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