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Crl.R.C.No.1761 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **SUNDER MOHAN**

Crl.R.C.No.1761 of 2024

M.Arvind Bagrecha
S/o.Madanlal Bagrecha,
No.153, Vellalar Street,
Purasaiwakkam,
Chennai-600 084.

Petitioner(s)

Vs

A.Mohanraj
Proprietor,
M/s.Hi-tec Valvae, No.3, Part-1,
Tass Industrial Estate, Ambattur,
Chennai-600 098.

Respondent(s)

Prayer: Criminal Revision Case is filed under Section 438 & 442 of BNSS to set aside the order dated 23.08.2024 passed in CC No.1146/2015 by the Honble Metropolitan Magistrate Fast Track Court at Magistrate Level-IV, George Town, Chennai-600 001.

For Petitioner : Mr.Ralph V. Manohar

For Respondent : No appearance



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ORDER

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2. The petitioner filed a complaint under Section 138 of Negotiable Instruments Act during July 2015 and the case was pending on the file of Fast Track Court before George Town, Chennai in C.C.No.1146 of 2015. It appears that for non-appearance of the petitioner, Non-Bailabale Warrant (NBW) was issued on 03.04.2024 and the petitioner was directed to pay the process fee for execution of NBW.

3. The learned counsel for the petitioner would submit that the petitioner/complainant either appeared in person or through counsel throughout the proceedings; that non-payment of process fee is neither wilful nor wanton; that in any event, the petitioner cannot suffer due to the inadvertence of the counsel and prayed for setting aside the order passed by the trial court.



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4. Notice sent privately to the respondent was returned for the reason “unclaimed”. Hence, this Court deemed it as service of notice and inspite of the name being printed in the cause list, none has entered appearance.

5. Admittedly, the petitioner had not paid the process fee and hence the complaint came to be dismissed on 23.08.2024. This Court, on perusal of the adjudication orders of the trial court finds that on 03.04.2024, the petitioner was present. On the subsequent hearings, namely on 28.06.2024 & 05.08.2024, though the petitioner was absent, his counsel was present and the petition to dispense with his presence was filed. The petitioner has not paid the process fee which shows that the petitioner was not diligent, as rightly observed by the learned Magistrate. However, since the petitioner had participated in the proceedings throughout, this Court is of the view that one more opportunity can be given to the petitioner to pursue the case on merits and the petitioner can be directed to pay the process fee within a period of two (2) weeks from the date of receipt of a copy of this order.



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WEB COPY 6. Accordingly, the Criminal Revision is allowed and the impugned order dated 23.08.2024 passed in C.C No.1146/2015 by the Metropolitan Magistrate Fast Track Court at Magistrate Level-IV, George Town, Chennai is set aside and C.C.No.1146 of 2015 is restored to file, on condition that the petitioner shall pay the process fee within a period of two (2) weeks from the date of receipt of a copy of this order.

03.01.2025

Index : Yes/No

Neutral Citation : Yes/No

Speaking order/Non-speaking order

rgr

TO

The Metropolitan Magistrate,
Fast Track Court at Magistrate Level-IV,
George Town, Chennai



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SUNDER MOHAN, J.

rgr

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