

Crl.A(MD)No.146 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED :05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A(MD)No.146 of 2025

Vins

... Appellant

Vs

Pramila

... Respondent

PRAYER: Appeal filed under Section 378 of the Criminal Procedure Code, as against the Judgment passed by the learned Judicial Magistrate No.II, Kuzhithurai in STC No.568 of 2022, dated 13.10.2023, in dismissing the complaint filed by the appellant for non-prosecution.

For Appellant : Mr.M.Arasathul Hameed
For Respondent : Mr.S.Suresh Kumar

J U D G M E N T

This Criminal Appeal is arising out of the judgment passed by the learned Judicial Magistrate No.II, Kuzhithurai in STC No.568 of 2022, dated 13.10.2023.

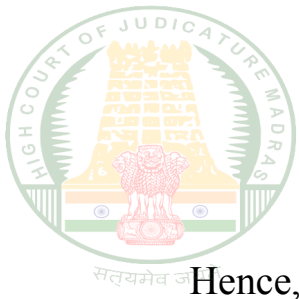


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2.The case in STC No.568 of 2022 was registered on the complaint given by the appellant herein as against the respondent/accused, for the offence under Section 138 of the Negotiable Instruments Act. Though the case was filed in the year 2022, this appellant has not prosecuted the appeal in a proper manner. On the day when the case was taken up for hearing before the trial Court on 13.10.2023, the appellant/complainant was absent and there was no representation for him. Therefore, the trial Court, by its order dated 13.10.2023 has dismissed the case for non-prosecution. Challenging the same, this Criminal Appeal is filed.

3.The learned counsel appearing for the appellant/complainant submits that he was out of station on the day, when the case in STC No.568 of 2022 was listed for hearing before the trial Court. The learned counsel further submits that the hearing date of the case was not properly intimated to him and his counsel was held up in other Court and therefore, he has failed to follow up with the case.



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Hence, the case was dismissed by the trial Court for non-prosecution.

Now he undertakes that he will prosecute the case in a proper manner and he is also prepared to pay some cost for non prosecuting the appeal properly.

4.The learned counsel for the respondent/accused submits that it is not the first time the complainant was absent on the date of hearing on 13.10.2023. The complainant was absent consecutively for five hearings and therefore the trial Court considering the conduct of the complainant in prosecuting the case, has dismissed the complaint that he was absent for more than five hearings.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The case in STC No.568 of 2022 registered on the complaint of the appellant herein was dismissed only on the ground that he was not present on the date of hearing. The complainant is

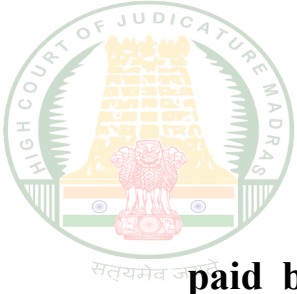


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having some reasons that he has not been properly communicated about the listing of the case before the trial Court. Be that as it may. Now the complainant has given an undertaking that he will prosecute the appeal in a proper manner, if it is restored to file and he is also prepared to pay some some cost for the mistake committed by him.

7.In view of the above, this Criminal Appeal is allowed on condition that the appellant/complainant has to pay a sum of **Rs.10,000/- to "The Commissioner, Madurai Corporation, Aringar Anna Maligai, Tallakulam, Madurai – 625 002, Canara Bank, Account No.110197467504, IFSC Code: CNRB0003041, MICR Code: 625015017"**. The Judgment passed by the learned Judicial Magistrate No.II, Kuzhithurai in STC No.568 of 2022, dated 13.10.2023 is hereby set aside. The said case is ordered to be restored to the file of the Judicial Magistrate Court No.II, Kuzhithurai for fresh trial, on filing the proof of payment made by the appellant as directed by this Court. The complainant shall adduce evidence properly without taking any further adjournments unnecessarily. **The amount to be**



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paid by the appellant shall be utilized by the Commissioner of Madurai Corporation, for the purpose of making necessary improvements in the Study Centre, Madurai Corporation.

05.03.2025

Index : Yes/No
Internet : Yes/No
vrn

To

The Judicial Magistrate Court No.II, Kuzhithurai.

Copy to

The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Tallakulam, Madurai – 625 002.



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B.PUGALENDHI, J.,

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Judgment made in
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