



WEB COPY

CRL RC No. 400 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL RC No. 400 of 2026

R.Kasthuri

..Petitioner(s)

Vs

K.V.Prakash

..Respondent(s)

Prayer: This Criminal Revision petition is filed under Section 397 & 401 of Cr.P.C/ 438 & 442 BNSS, to restore the Crl.Appeal No.925 of 2024 by setting aside the order dated 28.07.2025 passed by the learned XIX Additional Sessions Judge, City Civil Court, Chennai.

For Petitioner(s):

Mr.R.Saravana Kumar

For Respondent(s):

Mr.A.Sarangan

ORDER

This Criminal Revision Petition has been filed challenging the judgment passed by the XIX Additional Sessions Judge, City Civil Court, Chennai in Crl.A.No. 925 of 2024 dated 28.07.2025.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.



3. On perusal of the order passed by the learned XIX Additional Sessions Judge, City Civil Court, Chennai, it was not on merit. The learned XIX Additional Sessions Judge, City Civil Court, Chennai has passed the following order:

“Appellant called absent, No representation for appellant side. Conditional order for appearance of the appellant and for advancing argument not complied. It appears that appellant is not interested to prosecute this appeal. Hence, this criminal appeal stands dismissed.”.

4. From a perusal of the impugned order, it discloses that the learned Judge has summarily dismissed the appeal without going into the records. As per the judgment of the Hon’ble Supreme Court in **Bani Singh Vs. State of Uttar Pradesh** reported in **(1996) 4 SCC 720** whenever an appeal is filed, it is the duty of the appellant Court to peruse the records and the judgment of the Trial Court, and thereafter, to pass a reasoned judgment.

5. It is also relevant to refer the judgment of the Hon’ble Supreme Court in **K.Muruganandam Vs. State** reported in **(2021) 20 SCC 642**, where the Hon’ble Supreme Court has heavily come down against the order passed in a Criminal Appeal only on the basis of a non prosecution. The Hon’ble Supreme Court has held that the Appellate Court is obliged to proceed with the hearing of



the case only after appointing an *Amicus Curiae* and in any case, the appeal cannot be dismissed merely because of non-representation or default of the advocate for the accused. This position has already been settled in ***Kabira Vs. State of Uttar Pradesh*** reported in **1981 Supp SCC 76** and ***Mohd.Sukur Ali Vs. State of Assam*** reported in **(2011) 4 SCC 729**.

6. However, in the present case, the appellate Court, merely noting the absence of the appellant and without examining the records available before it, has passed the impugned order, which is contrary to the law laid down by the Hon'ble Supreme Court. Hence, this Court finds that the said order is unsustainable and the judgment is to be set aside and the matter is to be remitted back for fresh disposal.

7. In the result, the appeal is allowed and the judgment of the Appellate Court is set aside and the matter is remitted back to the appellate court for fresh consideration in accordance with law.

30-03-2026

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To
XIX Additional Sessions Judge, City Civil Court, Chennai



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C.KUMARAPPAN, J.

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