



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL RC No. 811 of 2026

and Crl.M.P.Nos.6230 and 6231 of 2026

J.Rahul, S/o.Jayasuriyan

..Petitioner(s)

Vs

J.Thangaraj, S/o.Janarthanam

..Respondent(s)

Prayer: This Criminal Revision petition is filed under Section 438 & 442 BNSS, to call for the entire records in C.A.No.14 of 2025 on the file of the learned District and Sessions Judge, Chengalpattu and set aside the judgment dated 09.09.2025 passed by learned Principal District Sessions Judge, Chengalpattu dismissing Criminal appeal No.14 of 2025 against C.C.No.61 of 2022 on the file of learned Judicial Magistrate, Fast Track Court (Magisterial Level) at Alandur, Chengalpattu District dated 03.12.2024 and to allow the criminal revision case.

For Petitioner(s):

Mr.P.Prem Kumar

ORDER

This Criminal Revision Petition has been filed to set aside the judgment passed by the learned District and Sessions Judge, Chengalpattu dated 09.09.2025 in C.A.No.14 of 2025.



2. Heard the learned counsel for the petitioner.

3. On perusal of the order passed by the learned District and Sessions Judge, Chengalpattu, it was not on merit. The learned District and Sessions Judge, Chengalpattu has passed the following order:

“Appellant called absent, No representation. Notice to respondent not taken. Sufficient Opportunities provided to the appellant. Hence Criminal Appeal is dismissed for default.”

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. Connected miscellaneous petitions are closed.

08.04.2026

mp
To

1. The District and Sessions Judge, Chengalpattu.



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C.KUMARAPPAN, J.

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