



Crl.MP.(MD).No.16474/2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :11.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

Crl.MP.(MD).No.16474/2025

in

Crl.A.(MD).No.184/2025

T.Sundareswaran

... Petitioner

Vs

J.Metro

... Respondent

Criminal Miscellaneous Petition filed under Section 528 of BNSS, to restore the criminal appeal in Crl.A.(MD).No.184/2025, on the file of this Court to the file, which was dismissed for default, by setting aside the order dated 24.03.2025.

For Petitioner : Mr.A.Sankarapandian

For Respondent : Mr.B.Jeyakumar

ORDER

(1)The present petition is filed by the petitioner seeking restoration of the criminal appeal in Crl.a.(MD).No.184/2025, which was dismissed for default by this Court on 24.03.2025.



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(2) The petitioner, in the affidavit filed in support of the petition averred that this Court had directed the petitioner to produce relevant evidence and granted time to submit the same for the purpose of proving his case. The petitioner further states that he contacted his Trial Court counsel for getting the documents for conducting the final hearing, but was unable to contact the counsel. Mean while, the case was posted on 05.03.2025, and at the request of his counsel, this Court adjourned the matter. The petitioner states that in the absence of instructions from his counter, he was not able to appear and the case was posted for dismissal on 18.03.2025, and thereafter, it was again posted on 19.03.2025, under the same caption. Finally, the case was taken up for hearing on 24.03.2025 and the petitioner was not able to get the copies from the Trial Court advocate. Since, the petitioner was not able to produce the documents before this Court on 24.03.2025, the criminal appeal was dismissed for default on the said date. The petitioner further states that the petitioner was dismissed for non prosecution because of want of instructions and inability to produce the evidence within the time frame. The petitioner therefore states that his non-appearance is neither willful nor wanton, but due to the aforesaid reasons. Hence, the petitioner prayed for setting



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aside the dismissal order dated 24.03.2025, and to restore the criminal appeal on file.

(3)The respondent filed a detailed counter affidavit, stating *inter alia*, that the appeal was listed eight times, i.e., on 17.02.2025, 25.02.2025, 27.02.2025, 05.03.2025, 12.03.2025, 18.03.2025, 19.03.2025 and 24.03.2025. The respondent further submitted that on 05.03.2025, this Court had heard the appeal on merits and was not inclined to entertain the appeal. But, on the request of the learned counsel for the appellant, the matter was adjourned to 05.03.2025. Thereafter, in spite of several opportunities, the petitioner failed to produce the relevant evidence. The respondent submitted that the petitioner, not only failed to produce the relevant evidence, but also did not appear before the Court and therefore, this Court, by impugned order dated 24.03.2025, dismissed the criminal appeal for non prosecution. The respondent further submitted that there was absolutely no merits in the present petition seeking restoration of the appeal and the records would reveal that the petitioner/appellant willfully and wantonly avoided prosecuting the appeal. The respondent, therefore prayed for dismissal of the application.

(4)Heard both sides and perused the materials placed on record.



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(5) A perusal of the order of this Court dated 24.03.2025 reveals that the criminal appeal was listed before the Court eight times. In the order dated 05.03.2025, this Court recorded that the Court was not inclined to entertain the criminal appeal, however, on the request of the learned counsel for the appellant, the matter was adjourned. Thereafter, when the matter was listed on 18.03.2025, there was no representation for the petitioner and therefore, the learned Judge directed the Registry to list the appeal on 19.03.2025 under the caption "for dismissal". On 19.03.2025, the learned counsel for the appellant was not ready to conduct the case and therefore, in order to give further opportunity, the appeal was directed to be listed on 24.03.2025. Even on 24.03.2025, the Court recorded that the learned counsel for the appellant was not ready to conduct the case and therefore, the Court inferred that the learned counsel for the appellant is not interested in prosecuting the appeal and hence, dismissed the appeal for default.

(6) This Court finds absolutely no reason to interfere with the order passed by this Court. The only reason stated by the learned counsel for the petitioner is that he was not able to produce the relevant evidence and therefore, he could not conduct the appeal and that the learned Judge



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ought to have given him an opportunity. The facts as recorded by this

Court, in its order dated 24.03.2025, belie the petitioner's submission that the Court ought to have given him an opportunity to prosecute the appeal on merits.

(7)In view of the aforesaid circumstances, this Court finds no merit in the application and hence, the same is **dismissed**.

11.02.2026

AP

To
The Additional Public Prosecutor
Madurai Bench of the Madras High court
Madurai.



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N.MALA,J

AP

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