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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No.2255 of 2024

R.Ramamoorthy

..Petitioner(s)

Vs

M.Dhivya

..Respondent(s)

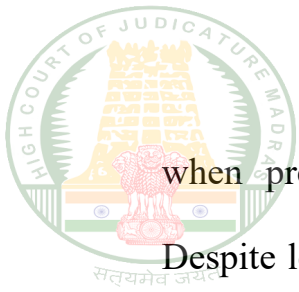
The revision is filed under Section 438 of BNSS read with Section 442 of the BNSS, to set aside the order dated 05.09.2024 in CC.No.670 of 2019 and to remand back the case on the file of the learned III Fast Track Metropolitan Magi, Saidapet, Chennai.

For Petitioner(s):	Mr.Parasaran P.A.
For Respondent(s):	No appearance

ORDER

This Criminal Revision Petition is filed challenging the order dated 05.09.2024 passed by the Learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai in C.C.No.670 of 2019, whereby the complaint filed by the Petitioner under Section 138 of the Negotiable Instruments Act was dismissed for non-prosecution and non-payment of process fees.

2. The case of the Petitioner is that the Respondent borrowed a sum of Rs.2,40,000/- as hand loan and issued a cheque bearing No.000008 dated 09.06.2018 drawn on Bank of Baroda, Royapettah Branch. The said cheque



when presented was dishonoured on 22.06.2018 for "Funds Insufficient".

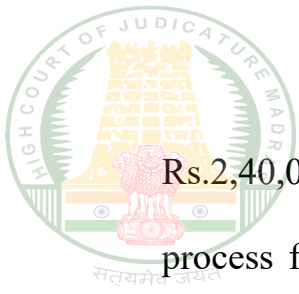
Despite legal notice dated 04.07.2018, the Respondent failed to pay. Hence the

complaint was filed and taken on file as C.C.No.670/2019. The Petitioner submits that on 09.05.2024 the Trial Court directed the Petitioner to take fresh summons on payment of process fees. Due to lack of communication from the erstwhile counsel and the bonafide impression that counsel would take steps, neither the Petitioner nor counsel appeared on 05.09.2024. Consequently, the case was dismissed by the learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai vide its order dated 05.09.2024 in CC.No.670 of 2019. Aggrieved over the same, the petitioner has filed the present revision.

3. The Petitioner contends that the dismissal was not wilful. It was due to inadvertence on the part of the counsel. The Petitioner was not made aware of the stage of the case. Dismissal on technical grounds would cause miscarriage of justice. Therefore, this Court may set aside the impugned order and remand the matter back to the trial Court.

4. Heard the learned counsel for the Petitioner. Perused the records and the impugned order. Though notice has been served on the respondent, however, no one appeared on her behalf either in person or through counsel.

5. It is seen that the complaint is of the year 2019 relating to a cheque for



Rs.2,40,000/-. The dismissal was for non-appearance and non-payment of process fees pursuant to a conditional order dated 09.05.2024. The Petitioner has stated that the absence was neither wilful nor wanton and was due to counsel's failure to communicate. In criminal cases, especially under Section 138 of N.I. Act, courts should adopt a liberal approach to ensure that matters are decided on merits rather than on technicalities. The right of the complainant to prosecute his case should not be defeated due to the lapse of counsel.

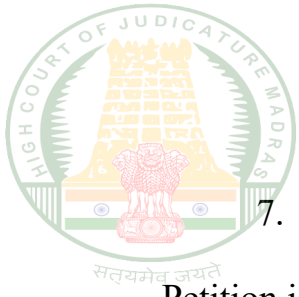
6. Considering the facts and circumstances and the undertaking given by the Petitioner to pay necessary charges and to appear before the Trial Court with due diligence, this Court is inclined to allow the revision petition and passes the following orders:

(i) *The order dated 05.09.2024 passed by the Learned III Fast Track Metropolitan Magistrate, Saidapet in C.C.No.670 of 2019 is hereby **SET ASIDE**.*

(ii) *The matter is **REMANDED BACK** to the file of the Learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai for fresh disposal in accordance with law.*

(iii) *The Learned Magistrate is directed to consider and pass orders on merits within a period of 6 months from the date of receipt of a copy of this order;and*

(iv) *The Petitioner is directed to appear before the Trial Court on the date fixed and to pay the requisite process fees and comply with all court directions without fail.*



7. With the above observation and directions, this Criminal Revision

Petition is **ALLOWED**.

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Index: Yes/No

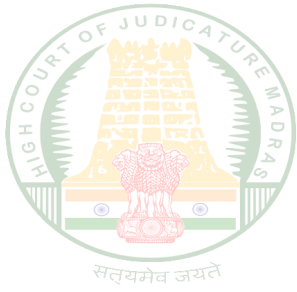
Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The III Fast Track Metropolitan Magi, Saidapet, Chennai.



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Case Citation: (2026) ibclaw.in 4812 HC

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SHAMIM AHMED, J.

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