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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDHARAN

Criminal Appeal Nos.121 to 126 of 2007

Dr.R.Jegan ... Appellant in all Crl.Appeals

Vs

M.Balasundaram	... Respondent in Crl.A.No.121/2007
M.Venkatesh	... Respondent in Crl.A.No.122/2007
D.Rajkumar	... Respondent in Crl.A.No.123/2007
B.Susila	... Respondent in Crl.A.No.124/2007
V.Sasidharan	... Respondent in Crl.A.No.125/2007
V.Jagadheesvari	... Respondent in Crl.A.No.126/2007

Prayer in all Crl.Appeals :- These Criminal appeals are filed under Section 378 of Criminal Procedure Code praying to set aside the order dated 28.12.2006 made in C.C.Nos.35 of 2003, 641 of 2002, 275 of 2003, 351 of 2002, 143 of 2002 and 325 of 2002 on the file of the Judicial Magistrate No.1, Pollachi and direct to restore the case on file and proceed further against the accused/respondent.

For Appellant : Mr.T.M.Hariharan
all Crl.As

For Respondents
in all Crl.As': Mr.P.Anbalagan
Legal Aid Counsel

C O M M O N O R D E R

These appeals have been filed to set aside the order passed by the No.1, Pollachi in C.C.Nos.35 of 2003, 641 of 2002, 275 of 2003, 351 of 2002, 143 of 2002 and 325 of 2002 dated 28.12.2016.

2. Though notice was served on the respondents, their names are also printed in the cause list but there is no representation for the respondents. Hence, this Court is appointed as Mr.P.Anbazhagan, Advocate, as legal aid counsel appearing for the respondents and now he also appeared before this Court.

3. It is seen from the records that the appellant had appeared before the trial Court for more than four years, but he did not appear before the said Court for only one hearing i.e.28.12.2006, and hence, the trial Court dismissed the case for non-prosecution.



4. Time and again, this Court and the Hon'ble Apex Court very categorically held that the trial Court should not be dismissed the case merely, because of non-appearance of the appellant, but the trial Court has not passed detailed speaking order.

5. Considering the facts and circumstances of the case and also dismissal of the complaint, this Court is inclined to pass the following the orders:

i) The Criminal Appeals are allowed and the impugned orders passed in C.C.Nos.35 of 2003, 641 of 2002, 275 of 2003, 351 of 2002, 143 of 2002 and 325 of 2002 on the file of the the Judicial Magistrate No.1, Pollachi dated 28.12.2016 is set aside and the cases are remanded to the said Court for fresh disposal after giving due notice to both the parties concerned.

ii) On condition that the appellant is directed to pay a sum of Rs.1,000/- in each cases to Mr.P.Anbazzhagan, learned legal aid counsel appearing for the respondents, with a period of two weeks from the date of receipt of a copy of this order.

iii) The learned Judicial Magistrate No.1, Pollachi is directed to dispose of the case on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

iv) Both the parties are directed to co-operate for speedy disposal of the cases before the trial court, without giving any adjournments.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

bri



To

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1. The Judicial Magistrate No.1,
Pollachi.

2. The P.Anbazhagan Legal Aid Counsel,
Tamil Nadu, Legal Services Authority,
High Court, Campus, Chennai.

Criminal Appeal Nos.121 to 126 of 2007

RK(CO)
EU(12/04/2018)