

SUPREME COURT OF INDIA

Neelakanteswaraswamy

Vs.

M.Mahadevamurthy

CrI.A.No.1420 of 2008

(Tarun Chatterjee J.)

08.09.2008

ORDER

1. Leave granted.

2. This appeal is directed against the final order dated 16th of August, 2007 passed by the High Court of Karnataka at Bangalore in Criminal Revision Petition No. 412 of 2007, whereby the High Court had dismissed the Criminal Revision Petition and confirmed the findings recorded by the trial Court in C.C. No. 8325 of 2004.

3. Having heard the learned counsel for the parties and after examining the impugned order as well as the other materials on record, we are of the view that the impugned order cannot be sustained. It is an admitted position that the summons were issued on 31st of July, 2006, by which the accused/appellant was directed to appear on 7th of December, 2006. However, the admitted position now is that the proceedings were pre-poned in respect of which, no notice was served upon the appellant and accordingly, the matter was disposed of by the trial Court on the aforesaid pre-poned date. Such being the position, we set aside the impugned order and remit the matter back to the trial Court to decide the same afresh in accordance with law in presence of the parties. The appellant shall appear before the concerned Court on 4th of January, 2009 for which, no further notice is required to be served on both the parties.

4. Accordingly, the appeal is allowed to the extent indicated above.