



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2013

THE HON'BLE MRS.JUSTICE ARUNA JAGADEESAN

CRL.R.C. (MD) No.746 of 2013

K.Jeyachandran ... Petitioner/Complainant

Vs

Nicholas,
Proprietor,
Thottathil Potta,
Karunya Bhavan,
Kanjampazhinji Post,
State of Kerala.

... Respondents/Respondents

Prayer: Criminal revision petition filed under Section 397 r/w 401 of Criminal Procedure Code to set aside the order passed by the Fast Track Judge (Magistrate Level), Kovilpatti in Cr.M.P.No.2155 of 2013 dated 12.09.2013 dismissing the petition to condone the delay of 86 days in filing the private complaint under Section 138 of Negotiable Instruments Act.

For Petitioner : Mr.S.Ramasamy
For Respondent : M/s.K.Mahalakshmi

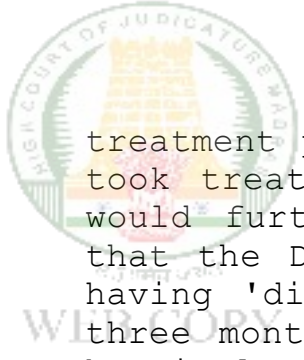
O R D E R

This revision is filed challenging the order dated 12.09.2013 passed in Cr.M.P.No.2155 of 2013 by the Fast Track Judge (Magistrate Level), Kovilpatti, refusing to condone the delay in filing private complaint under Section 138 of N.I. Act.

2. The short facts of the case are as follows:

The respondent gave a cheque bearing No.001365 dated 12.10.2012 for a sum of Rs.1,50,000/- and on the cheque being presented before the bank, it was dishonoured for insufficient fund. Therefore, he has filed a petition under Section 138 of N.I. Act, and the same was dismissed by the learned Judge. Against which, the present revision has been filed.

3. The learned counsel for the petitioner would submit that the petitioner was suffering from 'disk prolapse' and he was advised to take complete rest for three months and he also produced medical certificate to that effect. The learned counsel would further submit that the learned Judge has dismissed the petition on the ground that the petitioner has not produced any



treatment particulars and there is no indication as to whether he took treatment as inpatient or outpatient. The learned counsel would further submit that the learned Judge failed to consider that the Doctor has issued a certificate that the petitioner was having 'disk prolapse' and he has been advised to take rest for three months and it is not his case that he was admitted in the hospital.

4. On the other hand, the learned counsel for the respondent would submit that the petitioner has not given any details of treatment taken by him and therefore, the learned Judge has rightly dismissed the petition.

5. Heard the learned counsel for the parties.

6. On a perusal of the medical certificate produced by the petitioner before the lower Court, it is seen that the petitioner was suffering from 'disk prolapse' on 'L4' and he was taking treatment from 20.03.2013 to 13.06.2013 from a Doctor, who was a Ortho Senior Civil Surgeon. It is not the case of the petitioner that he was admitted as inpatient. The certificate issued by the Doctor shows that the petitioner was advised to take complete rest for three months and for this purpose it is not necessary for him to get admitted in a hospital.

7. In such circumstances, the order passed by the learned judge refusing to condone the delay is liable to be set aside and accordingly, the Criminal Revision Case is allowed and the delay of 86 days in filing the private complaint stands condoned and the matter is remitted back to the learned Fast Track Judge (Magistrate Level), Kovilpatti. He shall take the complaint on cognizance if it is otherwise in order and pass orders in accordance with law.

Sd/-

Assistant Registrar (A.E)

// True Copy //

Sub Assistant Registrar

To

The Fast Track Judge (Magistrate Level), Kovilpatti.

+1cc to Mr.S.Ramasamy, Advocate in SR No.63858.

Cr1.R.C. (MD) No.746 of 2013
20.12.2013