

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1427 of 2008

Mrs.Thulasimani

.. Petitioner

vs.

Mr.Nithyanandam

.. Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. to set aside the order passed by the lower appellate Court namely Additional District Judge, Fast Track Court No.3, Coimbatore in C.R.P.No.71 of 2008 dated 25th July 2008 and restore the C.C.No.241 of 2008 on the file of the Judicial Magistrate No.III, Coimbatore.

For Petitioner : Mr.G.Ponnambalathiyagarajan

For Respondent : Mr.C.Deivasigamani

ORDER

Owing to non-compliance with the condition imposed by this Court under orders dated 03.06.2015, this revision stands restored in keeping with such order.

2. This revision challenges the order of the learned Additional District and Sessions Judge, Fast Track Court III, Coimbatore dated 25.07.2008 passed in C.R.P.No.71 of 2008.

3. The petitioner preferred a complaint alleging commission of offence under Section 138 of the Negotiable Instruments Act by the respondent. Such complaint was preferred 37 days beyond the period of limitation. Therefore, the petitioner sought condonation of delay. After notice to the respondent, the matter stood posted for counter and after several adjournments and upon failure to file a counter, as also upon absence of the respondent, the trial Court viz., Judicial Magistrate III, Coimbatore allowed such petition on 14.02.2008. Such complaint was taken on file in C.C.No.241 of 2008. Thereagainst, the respondent/accused preferred a revision in C.R.P.No.71 of 2008, which has been allowed under orders dated 25.07.2015. The petitioner/complainant has preferred the present revision against such order.

4. Heard learned counsel for petitioner and learned counsel for respondent.

5. The Court below has allowed the revision moved by the respondent on the reasoning that Section 142 of the Negotiable Instruments Act totally prohibited taking cognizance of an offence thereunder except when the

complaint was made within one month from the date on which the cause of action arose. It was reasoned that given such total prohibition, no application under Section 5 of the Limitation Act could be entertained. The Court below has been oblivious to the fact that Section 142 of the Negotiable Instruments Act contained a proviso which permitted taking cognizance of a complaint after the prescribed period upon the complainant showing sufficient cause for failure to prefer the complaint within the stipulated period. The order of the Judicial Magistrate III, Coimbatore allowing C.M.P.No.4006 of 2007 is a well reasoned one and did not call for any interference at the hands of the Court below.

This revision shall stand allowed. The case in C.C.No.241 of 2008 on the file of the Judicial Magistrate III, Coimbatore shall be restored to file and the trial Court shall now proceed from the stage of examination of the prosecution witnesses.

14.12.2015

Index:yes/no
Internet:yes/no
gpa

To

1. The Additional District Judge
Fast Track Court No.3, Coimbatore
2. The Judicial Magistrate No.III
Coimbatore
- 3.The Public Prosecutor,
High Court, Madras.

C.T.SELVAM. J

gpa

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