

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.8913 of 2010
and M.P.No.1 of 2010

S.Stanislaus

...Petitioner/Accused

vs.

Lalesh Kumar Jain

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in C.C.No.1900 of 2008 on the file of VIII Metropolitan Magistrate Court, George Town, Chennai-600 001 and quash the same.

For Petitioner : Mr.Boopalan
for M/s.J.R.K.Bhavanantham

For Respondent : Mr.B.Manoharan
for M/s.L.Prabakaran

O R D E R

This petition is filed to quash the proceedings in C.C.No.1900 of 2008, on the file of the VIII Metropolitan Magistrate, George Town, Chennai.

2. The learned counsel for the petitioner submitted that the respondent instituted the above case under Section 138 of the Negotiable Instruments Act, 1881 and the complaint filed by the respondent is clearly barred by time. It is further submitted that even according to the complaint, statutory notice dated 13.06.2007 was issued to the petitioner/accused and the same was returned with an endorsement "Unclaimed by the Accused" on 16.06.2007 and therefore, the petitioner was entitled to make payment on or before 01.07.2007 and the cause of action arose from 02.07.2007 and under Section 142(b) of the Negotiable Instruments Act, 1881, the complaint ought to have been filed within 30 days from the date of arising of the cause of action and admittedly the complaint was dated 17.08.2007 and therefore, the complaint was barred by limitation. He also submitted that in the statutory notice, it has not been stated that the amount is to be paid within 15 days and on that ground also, the complaint is liable to be quashed.

3. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the complaint that it was dated 17.08.2007 and the statutory notice was served on the petitioner on 16.06.2007 and therefore, cause of action for filing the complaint arose on 02.07.2007 and the complaint ought to have been filed on or before 01.08.2007, however, as per the proviso to Section 142 of the Negotiable Instruments Act, 1881, the Court has got power to condone the delay in filing the complaint on being satisfied with the reasons stated by the complainant. Therefore, when the Court has taken the complaint on file, it must have condoned the delay and the petitioner has not stated whether the delay was condoned or not and hence, the contention of the learned counsel for the petitioner that the complaint is barred by limitation cannot be accepted. The next contention of the learned counsel for the petitioner is that 15 days clear notice was not given. I am unable to accept the said contention for the reason that though 15 days clear notice was not mentioned but the complaint was filed beyond 15 days. The petitioner has not made out any other ground for quashing the complaint.

4. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

TO

1. VIII Metropolitan Magistrate, George Town, Chennai.1
2. The Chief Metropolitan Magistrate, Egmore, Chennai.

GGK(CO)
Eu 11.04.15

Cr1.O.P.No.8913 of 2010