

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.9222 of 2015

D.Anand

... Petitioner/Petitioner

Vs

R.Gayathri

... Respondent/Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the docket order dated 17.11.2014 made in S.T.C.No.3198 of 2014 passed by the learned Metropolitan Magistrate (FTC-1), Egmore, Chennai.

For Petitioners : Mr.R.Vinupriyaga

O R D E R

The present criminal original petition has been filed by the petitioner praying to set aside the order dated 17.11.2014 in S.T.C.No.3198 of 2014, passed by the learned Metropolitan Magistrate (FTC-1), Egmore, Chennai.

2.The petitioner herein originally filed a complaint under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate No.II, Ponneri; but, the said complaint was returned by the learned Judicial Magistrate No.II, Ponneri on the point of territorial jurisdiction as per the dictum laid down in the judgment of the Hon'ble Supreme Court in (2014) 3 MLJ 475 (SC) [Dashrath Rupsingh Rathod Vs. State of Maharashtra and another]. Hence, subsequently, the petitioner represented the complaint before the learned Metropolitan Magistrate (FTC-1), Egmore. But, by the impugned order dated 17.11.2014, the learned Metropolitan Magistrate (FTC-1) Egmore, by citing the above said judgment of the Hon'ble Supreme Court, has returned the petitioner's complaint stating that the complaint has to be

represented within 30 days from the date of return, but the same was represented with five days delay. Hence, the petitioner has come forward with the present petition before this Court.

3.The learned counsel appearing for the petitioner submitted that so far as the present complaint is concerned, originally it was filed before the Court within the statutory period; hence, the return made by the Court below is not proper.

4.Heard the submissions and perused the materials available on record. From a perusal of the materials available on record, I find that there was a delay of five days in representing the complaint on the part of the petitioner. However, since the original complaint was filed within the statutory period, even if there is any delay in representing the complaint, such delay can be a subject matter of trial. Hence, the decision cited by the Court below in returning the complaint represented by the petitioner cannot be a bar to receive the complaint. Therefore, I am of the opinion that the return made by the Court below is not proper.

5.Hence, the impugned order is set aside and the learned Metropolitan Magistrate (FTC-1), Emgore, Chennai is directed to take the complaint of the petitioner on file and proceed in accordance with law, as early as possible. Accordingly, the Criminal original petition is allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssv

To

The Metropolitan Magistrate (FTC-1),
Egmore, Chennai.

+1cc to Mr.R.Vinupriyaga, Advocate, S.R.No.68739

Cr1.O.P.No.9222 of 2015

CTK(CO)
CA(12/01/2016)