

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2015

CORAM:

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P.No.24376 of 2009

and

M.P.No.1 of 2009

1.M/s.Flim Works,
No.51, 1st Street,
Nandanam Extension,
Chennai - 600 035.

2.Mr.Vikram Singh,
Proprietor,
Flim Works,

3.Mrs.Vidhya Singh, ... Petitioners

Vs.

S.Hajamohideen
Meta Audio,
No.37, Wallers Road,
Mount Road,
Chennai - 600 002.
Represented by its
Power of Attorney,
Mr.R.Govindarajalu.

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.32017 of 2004 on the file of the XIV Metropolitan Magistrate, Egmore.

For Petitioners : M/s.S.Sridevi

For Respondent : M/s.K.P.Ananthakrishna

ORDER

The accused in C.C.No.32017 of 2004 on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai, is the petitioner herein. This petition is filed to quash the above said complaint filed by the respondent. The only contention of the learned counsel for the petitioners is that the complaint filed by the respondent/complainant is barred by limitation.

2. The learned counsel for the petitioners has brought to my notice that even as per sworn statement and as per the averment made in the complaint, the cheque was returned by the Bank on 11.06.2004 and on 24.06.2004, notice was issued to the petitioners and they received notice on 30.06.2014 and therefore, as per the provisions of Section 138 of N.I.Act, the complaint ought to have been filed on or before 13.08.2004 and as per the complaint, it was dated 07th September, 2004, no application was filed to condone the delay for not filing the complaint within the prescribed period of limitation. It is therefore submitted that the complaint is barred by limitation and it has to be quashed.

3. I am unable to accept the contention of the learned counsel for the petitioners and the learned counsel for the petitioners has not produced any material to the effect that the complaint was filed on 07.09.2004 or no application was filed to condone the delay, if the complaint was filed on 07.09.2004 as contended by the learned counsel for the petitioner. Therefore, in the absence of above said particulars, it cannot be presumed that the complaint was filed beyond the period of limitation.

4. The learned counsel for respondent/complainant submitted that even assuming that the complaint was filed beyond the period of limitation and no application was filed to condone the delay, as per judgment reported in CDJ-2015 MHC 781 in the matter of A.Rahamathullah @ Maulana Vs. P.A.K.Manohran, cognizance taken by the learned Magistrate can be set aside, and the respondent/complainant can be permitted to file a petition with an affidavit stating the reason for the delay and the same may be considered by the learned Magistrate. As the petitioner has not given any particulars viz., whether the complaint was filed beyond the period of limitation or whether an application filed or not, I am not inclined to accept the contention made by the learned counsel for the petitioners. Hence, the petition is dismissed. Consequently, connected miscellaneous petition is closed.

5. However, the issue whether the complaint was filed within the

period of limitation as contended by the learned counsel for the petitioners or not, is left open and it is open to the petitioners to agitate the same before the trial Court and the trial Court is also directed to take into consideration those aspects and dispose of the case within a period of 4 months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sms

To

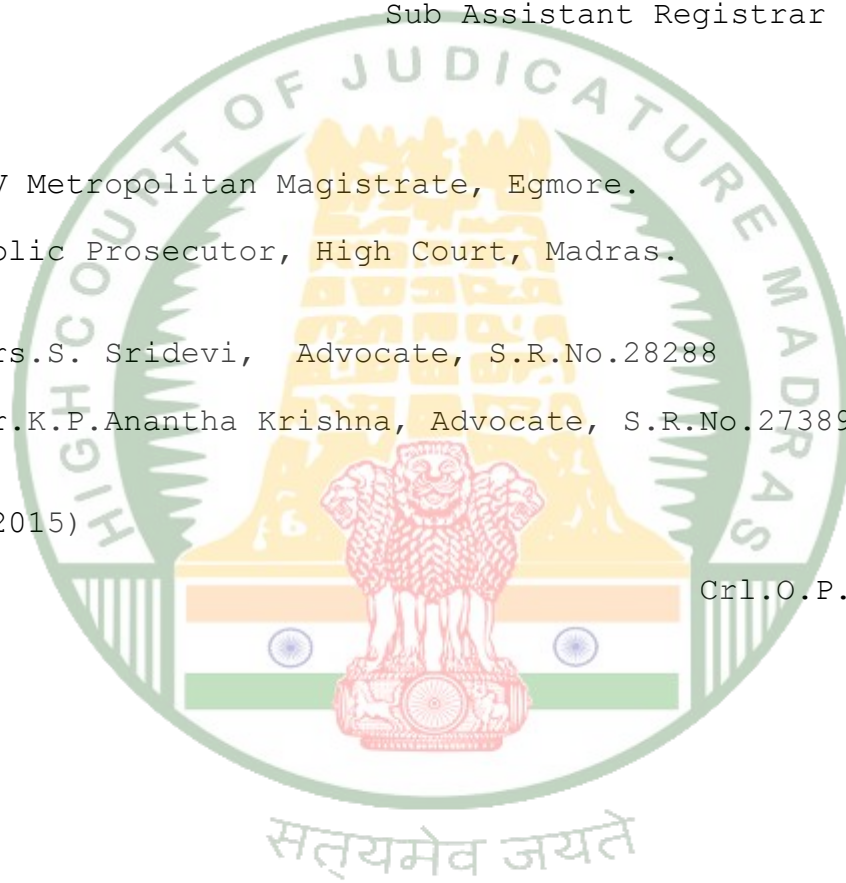
1. The XIV Metropolitan Magistrate, Egmore.
2. The Public Prosecutor, High Court, Madras.

+1cc to Mrs.S. Sridevi, Advocate, S.R.No.28288

+1cc to Mr.K.P.Anantha Krishna, Advocate, S.R.No.27389

KJI(CO)
EU(03/07/2015)

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