

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Cr1.O.P. No.25611 of 2010
and
M.P.Nos.1 and 2 of 2010

V.Amuthavalli

... Petitioner

vs.

M.Venkataraman

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records culminating in S.T.C.No.699 of 2010 on the file of the Judicial Magistrate No.III, Salem.

For Petitioner : Mr.M.R.Sivakumar

O R D E R

The petitioner is the accused in S.T.C.No.699 of 2010 on the file of the Judicial Magistrate No.III, Salem. The respondent filed the above complaint under section 138 of the Negotiable Instruments Act and this petition is filed to quash the same.

2. The only contention raised by the learned counsel appearing for the petitioner is that the legal notice was issued by the respondent/complainant on 10.4.2010 and the same was received by the petitioner/accused on 15.04.2010 and therefore, the complaint ought to have been filed on or before 30.5.2010 and no petition was filed to condone the delay in filing the complaint belatedly on 22.06.2010. He therefore submitted that the complaint was barred by limitation and on that ground, the Court should have dismissed the complaint and ought not to have taken cognizance of the same.

3. According to me, it is open to the petitioner to raise the same plea of limitation before the trial Court as no particulars were provided by the petitioner to the effect that the complaint was filed

on 22.6.2010 and no petition was filed to condone the delay. Even assuming that the complaint was filed beyond the date of 30 days from the date of receipt of notice and 15 days period, as per the provisions of sections 138 and 142, the Court has got power to take cognizance of the complaint if the Court is satisfied that the complainant has sufficient cause in not making the complaint within such period. Whether the complaint was filed within the period as prescribed in the statute and whether any petition was filed to condone the delay have to be ascertained and in this petition, no particulars are given with regard to that.

4. Hence, the argument of the learned counsel appearing for the petitioner cannot be entertained at this stage and the petition is dismissed. The connected Miscellaneous Petitions are closed. Liberty is given to the petitioner to substantiate his case on the ground of limitation before the trial Court by producing relevant materials before the trial Court.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

asvm

To

The Judicial Magistrate No.III,
Salem.

CRL.O.P. No.25611 of 2010
and
M.P.Nos.1 and 2 of 2010

CA(CO)
CA(23/06/2015)

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