



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Cr1.R.C.(MD)NO.146 of 2015

and

MP(MD) 1 of 2015

M.Selvi .. Revision Petitioner/Accused
Vs.
G.Gnanambal .. Respondent/Complainant

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order allowing the application for condone the delay in filing the complaint under Section 138 of the Negotiable Instruments Act dated 19.02.2015 made in Cr.M.P.No.4039 of 2014 passed by the learned Judicial Magistrate cum Fast Track Court, Karaikudi.

For Petitioner :: Mr.R.Sundar
Srinivasan
For Respondent :: Mr.P.Saravanakumar
ORDER

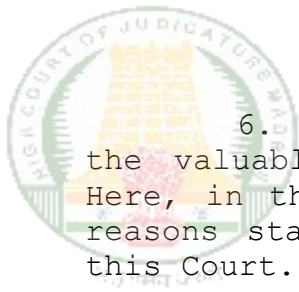
The petitioner is the accused in STC No.29 of 2015 on the file of the learned Judicial Magistrate cum Fast Track Court, Karaikudi. The respondent filed the said case by way of private complaint alleging that the petitioner has committed an offence punishable under Section 138 of the Negotiable Instruments Act. In presenting the complaint before the lower Court, there had occurred a delay of 45 days. Seeking to condone the same, the respondent filed Cr.M.P.No.4039 of 2014. That petition was allowed by the learned Judicial Magistrate by order dated 19.02.2015. Challenging the same, the petitioner is before this Court with this petition.

2. I have heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The learned counsel for the petitioner would submit that in the affidavit filed by the respondent before the lower Court, the delay of 45 days had not been explained away properly. He would submit that the reason stated in the affidavit is that there was a compromise talk and therefore, the complaint was not made. This explanation could not have been accepted by the lower Court, the learned counsel contended.

4. The learned counsel for the respondent would submit that the delay has been properly explained away in the affidavit. The learned counsel would further point out that in order to avoid the litigation, out of fear, the respondent waited for settlement.

5. I have considered the above submissions.



6. In my considered opinion, on a too technical ground of delay, the valuable right of contest cannot be deprived of to the parties. Here, in this case, the delay is not enormous, it is only 45 days. The reasons stated in the affidavit explaining the delay are acceptable to this Court. The lower Court has also accepted the same.

7. In view of the above, I do not find any merit at all in the revision. Accordingly, the Criminal Revision Petition fails and the same is dismissed. Consequently connected Miscellaneous Petition in M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate cum
Fast Track Court, Karaikudi

+1cc to Mr.P.Saravanakumar, Advocate in SR.No. 22533

Sm:11.05.2015:2P/3C

RR

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24.04.2015