

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1629 of 2015

ORDER:

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1. This Criminal Revision Case is filed by the petitioner-complainant aggrieved by the order dated 1.6.2015 passed in CrI.M.P.No.4163 of 2014 in CCSR No.8228 of 2014 by the II Additional Judicial First Class Magistrate, Rajahmundry, East Godavari District.

2. Originally, the complainant filed a complaint against the 2nd respondent-accused for the offence under Section 138 (a) r/w 142 of the Negotiable Instrument Act, before the V Additional Judicial First Class Magistrate, Kakinada, on the ground that when the cheque issued by the 2nd respondent was presented at Axis Bank, Kakinada, for collection, the same was dishonoured. On 27.8.2014, the said complaint was returned by the learned Magistrate, Kakinada, for presentation before proper Court. The same was informed to the complainant. But the complainant did not present the said complaint before the proper Court viz., II Additional Judicial First Class Magistrate, Rajahmundry, East Godavari District, as he was suffering from typhoid. Hence, the delay of 70 days occurred in presenting the complaint before the learned Magistrate at Rajahmundry. The petitioner filed the impugned application seeking to condone the delay in filing the complaint. The said application was dismissed. Hence, the petitioner approached this Court.

3. Heard and perused the material available on record.

4. In spite of service of notice on the 2nd respondent, he did not appear before this Court.

5. As per the new amendments to the Negotiable Instruments Act, the offence under Section 138 shall be enquired into and tried only by a court within whose local jurisdiction the bank branch of the payee, where the payee presents the cheque for

payment is situated. In the instant case, the complainant presented the cheque at Axis Bank, Kakinada. Therefore, the Court at Kakinada has jurisdiction to try the case of the petitioner.

6. Considering the facts and circumstances of the case and in view of new amendments as to the jurisdiction of filing of cheque dishonor cases under Section 138 of the Negotiable Instruments, the petitioner herein is directed to file the complaint before the learned Magistrate at Kakinada, which has jurisdiction to try the case along with the condone delay application with the reasons mentioned in the present revision. On such application being filed, the learned Magistrate at Kakinada is directed to condone the delay and take cognizance of the complaint to proceed with the trial after issuing notice to the 2nd respondent.

7. Accordingly, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 26th November, 2015

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