

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1039 of 2015

ORDER:

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1. This Criminal Revision Case is filed by the petitioner-complainant challenging the order dated 10.4.2015 passed in CC(sr) No.1001 of 2015 by the Judicial First Class Magistrate, Guntakal.

2. Originally, on 12.7.2001 the petitioner-complainant filed a complaint against the respondent for the offence under Sections 138 of the Negotiable Instruments Act before the Metropolitan Magistrate Court No.13 at Ahmedabad. In pursuance of the judgment of the Apex Court in **Dasarath Roop Singh Rathod Vs. State of Maharastra and another** (Crl.A.No.2287 of 2009) the said Court at Ahmedabad passed an order returning the complaint so as to enable the petitioner-complainant to file the same before the appropriate Court. Even though the order for return of the complaint was passed on 29.11.2014, the complaint was returned to the petitioner-complainant on 13.3.2015. Hence, the petitioner-complainant filed the said complaint before the Court below on 10.4.2015 on the point of jurisdiction. The Court below returned the said complaint on the ground that as per the judgment of the Apex Court referred to above, the limitation for presentation before proper Court is only 30 days whereas the present complaint is filed after expiry of limitation and therefore, the same is barred by limitation. Hence, the petitioner-complainant filed the present revision.

3. Heard and perused the material available on record.

4. The order under revision reads as follows:

“The complaint was returned at the original Court on

29.11.2014. As per order in Criminal Appeal No.2287 of 2009 of Hon'ble Supreme Court of India between Dasarath Roop Singh Rathod and State of Maharashtra and another, the limitation for presentation before proper Court is 30 days. The present complaint is filed on 10.4.2015 before this Court. Hence, the complaint is rejected as barred by limitation."

5. The fact remains that though the order for return of the complaint was passed on 29.11.2014, but the said complaint was returned on 13.3.2015 by the Ahmedabad Court, so that such an administrative lache cannot be fastened on the petitioner-complainant for filing the complaint in question at a belated stage.

6. Further, it is pertinent to note that originally, the petitioner-complainant filed the complaint before the Ahmedabad Court within the time limit and the same was also numbered. But in pursuance of the judgment of the Apex Court in **Dasarath Roop Singh Rathod Vs. State of Maharastra and another** (Crl.A.No.2287 of 2009), the complaint in question was ordered to be returned for the purpose of presenting the same before the appropriate Court, whereas the said complaint was not returned immediately.

7. In the circumstances, the date of return of the complaint to the petitioner-complainant is to be taken into account to compute the period of limitation. The complaint was admittedly returned on 13.3.2015 to the petitioner-complainant and the same was presented before the Court below on 10.4.2015. Therefore, it can be said that the presentation of the complaint in question is within the time.

8. In view of the foregoing discussion, this Criminal Revision Case is disposed of with the following direction:

“(i) The petitioner-complainant is directed to present the complaint again before the Judicial First Class Magistrate, Guntakal. The learned Magistrate is also directed to number the same on such presentation. After numbering same, the learned Magistrate is at liberty to adjudicate the issue, if any, as to the jurisdiction in the light of the judgment referred to above.

(ii) Registry is directed to return the original documents, if any filed, to the petitioner-complainant under proper acknowledgement”

Consequently, Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

22nd June, 2015

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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