

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2487 OF 2014

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ORDER:

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This Criminal Revision Case is filed by the complainant seeking to set aside the order dated 13.3.2014 in CrI.M.P.No.571 of 2013 whereby the learned Metropolitan Sessions Judge, Hyderabad dismissed the petition filed to condone the delay of 132 days in preferring the appeal against the order of the XV Additional Judge-cum-XIX Additional Chief metropolitan Magistrate, Hyderabad in dismissing C.C.No.1082 of 2012 for default filed by the petitioner herein under Section 138 of Negotiable Instruments Act.

The facts of the case are as follows:

The complainant-petitioner herein filed C.C.No.1082 of 2012 before the trial Court contending that he lent an amount of Rs.5.00 lakhs to the accused-first respondent herein in the first week of March, 2009 and after six months, when he demanded the accused to repay the said amount, the accused issued three cheques in question and when they were presented in the bank, they were returned unpaid and dishonoured with the banker endorsement 'restrictions in the account'. Therefore, after issuing legal notice dated 6.10.2009, the complainant filed the complaint.

The trial Court dismissed the complaint for default as the complainant-petitioner herein did not attend the Court for quite a long time. The lower appellate Court dismissed the condone delay petition on the ground that even though it is alleged by the petitioner that he was suffering with illness and that he was admitted in the hospital, the record that was produced by the petitioner reveals that he was admitted in the hospital on 5.1.2013 and discharged on 6.1.2013 i.e. he was hospitalized only for one day.

As observed by the lower appellate Court, there is no record to show that the petitioner was admitted in the hospital for a considerable period. Furthermore, the

dismissal of the complaint by the trial Court is also in view of continuous absence of the petitioner before it. In the circumstances, this Court is of the view that the order passed by the lower appellate Court is in accordance with law and no ground is made out to interfere with the same.

The revision fails and the same is accordingly dismissed.

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

JUSTICE RAJA ELANGO

10.06.2015

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