

Crl.M.P.No.12203 of 2016 in
Crl.A.Sr.No.47049 of 2016

M.VENUGOPAL, J.

Heard the Learned Counsel for the Petitioner/Appellant/Complainant. No counter affidavit is filed on behalf of the Respondent/Accused.

2.According to the Petitioner/Appellant, the trial Court had acquitted the Respondent by means of Judgment in S.T.C.No.287 of 2014 on 01.07.2016 and since his Advocate could not be contacted on 01.07.2016 immediately and further owing to the reason that he was held up in the Hospital due to his sickness, he filed the copy application on 11.07.2016 and the copy was made ready on 10.08.2016 and it was delivered on the same day.

3.A cursory perusal of the contents of the affidavit in Crl.M.P.No.12203 of 2016 filed by the Petitioner/Appellant latently and patently indicates that in the meanwhile, due to relapse of severe fever, he was not able to move from his place due to severe joint pain and

recovered later and only in September 2016, he had approached his Learned Counsel to file an Appeal before this Court after arranging funds to be incurred in connection with preferring of the Appeal. In this process, there has occasioned a delay of 34 days in preferring the Appeal, which is neither wilful nor wanton but due to the aforesaid reasons.

4. Even though no counter is filed on behalf of the Respondent/ Accused, the Learned Counsel for the Respondent submits that the reasons assigned by the Petitioner/Appellant at para 5 of the Affidavit in Crl.M.P.No.12203 of 2016 are not bona fide and they have not been made in good faith. Furthermore, the Petitioner/Appellant had not produced any documentary evidence to show that he was ailing from fever etc. In effect, the categorical stand of the Respondent is that the delay of 34 days is not to be condoned by this Court in furtherance of substantial cause of Justice.

5. On a careful consideration of respective contentions and also this Court bearing in mind that a Court of Law is to adopt a lenient and

liberal view while dealing with the Petition for 'Condonation of Delay' and also, this Court, on being subjectively satisfied as to the reasons assigned by the Petitioner/Appellant at para 5 of the Affidavit, condones the delay of 34 days in question, with a rider that the Petitioner/Appellant/Complainant shall pay a sum of Rs.500/- (Rupees Five Hundred Only) as costs to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, on or before 09.01.2017, failing which, it is made clear that the Petition shall stand dismissed automatically without any further reference to this Court.

6.In fine, the Crl.M.P.No.12203 of 2016 is allowed, on above terms.

22.12.2016

Index : Yes / No

Internet : Yes / No

Sgl

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