

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.04.2016
Delivered on: 25.04.2016

Coram:

THE HON'BLE Mr.JUSTICE M.VENUGOPAL

Crl.M.P.No.2153 of 2016
in
Crl.R.C.No.SR.8160 of 2016

C.Panneerselvam

...Petitioner

Vs.

S.Bakkiyam

...Respondent

Prayer: Petition filed under Section 5 of the Limitation Act to condone the delay of 317 days in preferring the Criminal Revision Case against the judgment dated 12.11.2014 passed in C.A.No.120 of 2012 on the file of the Learned Principal District & Sessions Judge, Salem.

For Petitioner : Mr.V.Ramana Reddy

For Respondent : Mr.A.Kandasami

ORDER

The Petitioner/Accused has preferred the instant Criminal Revision Petition praying for condonation of delay of 317 days in filing the present Criminal Revision Petition in SR.No.8160 of 2016 against the judgment dated 12.11.2014 passed by the Learned Principal District and Sessions Judge, Salem in C.A.No.120 of 2012.

2.It transpires that the Petitioner/Appellant/Accused had filed C.A.No.120 of 2012 before the Appellate Court being aggrieved against the judgment dated 19.10.2012 passed by the Learned Judicial Magistrate-III, Salem in S.T.C.No.306 of 2009, whereby and wherein, in respect of an offence under Section 138 of N.I. Act, he was found guilty and sentenced to undergo two months Simple Imprisonment and further, he was directed to pay a fine of Rs.1000/-, in default of payment of fine, he was directed to undergo further one month Simple Imprisonment. On the Appeal preferred by the Revision Petitioner/Appellant/Accused, the Appellate Court had dismissed the C.A.No.120 of 2012 on 12.11.2014 and confirmed the conviction and sentence passed by the trial Court in the judgment in STC.No.306 of 2009 dated 19.10.2012.

3. According to the Petitioner/Accused, he made an endeavour at his level best to compromise the matter with the Respondent/Complainant amicably, but the Respondent/Complainant had dragged on the settlement from time to time and ultimately, turned down his proposal for compromise and initiated further action against him as per Law. Therefore, the Petitioner could not file the present Criminal Revision Petition in time and filed the Revision Petition with a delay of 317 days. Viewed in that perspective, the delay in preferring the present Criminal Revision Petition is neither wilful nor wanton but due to the aforesaid reasons.

4. Per contra, it is the submission of the Learned counsel for the Respondent/Complainant that there was no compromise mooted by the Petitioner and even assuming that there was a compromise talk, in the affidavit in Crl.M.P.No.2153 of 2016, the Petitioner had not stated as to when the compromise was mooted and what were the terms of the said compromise. In short, it is the stand of the Respondent that the reasons ascribed by the Petitioner/Accused in his affidavit in Crl.M.P.No.2153 of 2016 for the delay of 317 days in

question are not bona fides and as such, the Petition is to be dismissed.

5.This Court had heard the Learned counsel appearing for the respective parties and noted their contentions.

6.Admittedly, the Petitioner has preferred the present Criminal Revision Petition in SR.No.8160 of 2016 with a delay of 317 days. The reason projected on the side of the Petitioner is that 'a compromise talk' was initiated but the same turned out to be futile, is indeed very much denied on behalf of the Respondent. It is true that the Petitioner/Accused had not averred in his affidavit in Crl.M.P.No.2153 of 2016 to the effect as to when the compromise was first initiated and also not specified the terms of compromise, if really there was a compromise.

7.Ordinarily, when a Court of Law deals with a Petition for 'Condonation of Delay', it is to adopt a lenient and liberal approach, avoiding either technicalities or hypertechnicalities. Also, the Court is not to adopt a pedantic approach. If a party files a Revision Petition or an Appeal deliberately with a delay, certainly, he/she

runs a serious risk. By and large, a litigant would not resort to file a Revision/Appeal in a given case deliberately with a delay or inordinate delay.

8.If the explanation offered by a party/litigant is concocted or the same is fanciful, then, a Court of Law is to be vigilant. Furthermore, no presumption can be attached in a given case to deliberate causation of delay, however, inaction, negligence/gross negligence either on the part of litigant or an Advocate is to be taken into account by a Court of Law while dealing with a petition for 'Condonation of Delay'. No wonder, a Court of Law is to weigh the scale of balance of justice of both parties and a Court of Law is certainly to be more circumspect and should adopt a careful approach at the time of taking a liberal view.

9.Apart from that, a Court of Law is to determine that 'Rules of Limitation' are based on the principles of Sound Policy and principles of Equity. Even the valuable right accrued to the other side cannot be taken away by another party by seeking the arms of 'Court of Law' to extend its 'Arms of Judicial Generosity'.

10.Be that as it may, on a careful consideration of respective contentions and although the Petitioner/Accused has come out with a reason that there was a compromise talk mooted earlier and the same being denied on the side of the Respondent/Complainant, yet this Court by taking a lenient and liberal view and also by providing an opportunity to the Petitioner to canvass the merits of the matter in the main Criminal Revision Petition filed by him, condones the delay of 317 days, subject to the rider that the Petitioner/Accused shall pay a sum of Rs.500/- to the Tamil Nadu Mediation and Conciliation Centre (situated at Madras High Court) on or before 07.06.2016, failing which, it is made clear that the CrI.M.P.No.2153 of 2016 shall stand dismissed automatically without any further reference to this Court.

25.04.2016

Index: Yes
Internet: Yes

DP

M.VENUGOPAL.J,

DP

Order made in
Crl.M.P.No.2153 of 2016 in
Crl.R.C.No.SR.8160 of 2016

25.04.2016