

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.314 of 2016
and CrI.MP.No.2093 of 2016

M.Subramaniam .. Petitioner/Respondent

Vs.

P.Jaganathan .. Respondent/Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 09.12.2015 passed by the learned Judicial Magistrate, Kangeyam, Tiruppur District in CMP.No.4494 of 2013.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.N.Stalin

ORDER

This Criminal Revision is directed against the order passed by the learned Judicial Magistrate, Kangeyam in CMP.No.4494 of 2013 dated 09.12.2015, allowing the petition to condone the delay of 30 days in presenting the complaint under Section 138 of Negotiable Instruments Act.

2.The learned counsel for the petitioner would mainly contend that the present complaint was filed with a delay of 30days and no reason was explained on the side of the complainant to condone the delay of 30days in filing the complaint. In the absence of any specific reason to put forth on the side of the complainant, the trial Court ought to have dismiss the application and prays to allow the revision.

3.The learned counsel for the respondent would contend that the trial Court after considering the reasons stated in the affidavit and after perusing the records allowed the condone delay petition and there is no illegality or infirmity in the order of the trial Court and prays to dismiss the revision petition.

4.The learned counsel for the petitioner mainly contended that due to ear surgery undergone by the complainant counsel,

the delay of 30days has been occurred in filing the complaint. In the Counter filed by the respondent/revision petitioner has not specifically denied the allegation made in support of the petition. In this case, as per the procedure, the Advocate notice was sent before filing the complaint before presenting complaint in the trial Court counsel who underwent ear surgery. Hence, the complaint was not filed within time and there is no fault on the side of the complainant, the delay has occurred due to the ear surgery underwent by the complainant counsel. In the interest of justice, the complainant has to be given an opportunity to contest the case on merits. This Court finds there is no illegality or infirmity in the order passed by the learned Judicial Magistrate, Kangeyam and the same does not warrant any interference by this Court.

5. In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Kangeyam.

2. Do Thro The Chief Judicial Magistrate,
Tiruppur.

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gj co

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