

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders Reserved on : 13.07.2016)

Date of Verdict: 25. 10.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.635 of 2016

N.Kumaran

.... Petitioner/Complainant

Vs.

V.J.Sathis Kumar

.... Respondent/Accused

Prayer: Criminal Revision Case filed under Sections 397 of the Code of Criminal Procedure, to set aside the order dated 11.03.2016 in M.P.No.3534 of 2015 on the file of the 23rd Metropolitan Magistrate Court at Saidapet, Chennai and to allow the same.

For Petitioner : Mr.G.A.Thiyagarajan

For Respondent : Mr.J.William Shakespere

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ORDER

This Criminal Revision Case is directed against the order dated 11.03.2016 passed in M.P.No.3534 of 2015 by the learned 23rd Metropolitan Magistrate Court at Saidapet, Chennai and set aside the same.

2. The learned counsel appearing for the revision petitioner mainly contended that the order passed by the trial Court is not proper either in law or on facts. Even though, the reason for delay was properly explained by the revision petitioner, the learned Magistrate, without considering the reasons, erroneously dismissed the petition filed for condoning the delay of 286 days in presenting the appeal stating that the reasons stated by the revision petitioner are not reliable and unacceptable. As against the said order the present criminal revision case has been filed. Thus, the learned counsel prayed that the impugned order passed by the learned Magistrate may be set aside and the Criminal Revision Case has to be allowed.

3. The learned counsel for the respondent contended that the trial Court, after appreciating the entire evidence on record and the arguments advanced by the learned counsel for both sides, has come to the conclusion that the revision

petitioner has failed to explain the reasons for the delay of 286 days in filing the appeal and dismissed the petition. Hence, there is no infirmity or illegality in the order passed by the learned Magistrate and therefore, he prayed that the Criminal Revision Case may be dismissed.

4. This Court has considered the submissions made by the learned counsel on either side and perused the records.

5. In this case, It is stated that the respondent and his father requested the petitioner to give time to clear the debt. But, they have not cleared the debt as per the promise given by them. Hence, for the debt amount, the respondent has given a cheque to the petitioner and when the same was presented for collection, returned as "insufficient funds". After returning the cheque, the respondent and his father again prayed four months time to clear the debt and again they have failed to clear the debt. Hence, the revision petitioner preferred a complaint under Section 138 of the Negotiable Instruments Act along with M.P.No.3534 of 2016 to condone the delay of 286 days in filing the application. The learned Magistrate dismissed the condone delay petition stating that the revision petitioner has not properly explained the reasons for the delay caused in filing the petition.

6. According to the revision petitioner, the cheque was presented for collection on 10.09.2014 and the same was dishonoured stating "insufficient funds". The said cheque was returned to the respondent on 11.10.2014 along with legal notice. The respondent received the same on 14.10.2014. Thereafter, the respondent and his father again requested four months time to pay the debt but, they have not paid the debt amount. In that process, a delay of 120 days has occurred. Even thereafter, the respondent requested time to make payment on various reasons, but they have not paid the amount. Though the revision petitioner explained the delay of 120 days, he has not stated any proper reason for the delay of another 166 days before the trial Court. Considering the above said facts, the learned Magistrate has come to the conclusion that though the revision petitioner stated proper reason for 120 days, he has not given any acceptable reason for the remaining 166 days delay. Hence, the learned trial Judge rightly, dismissed the application.

7. In view of the above said facts and circumstances, this Court is of the considered view that there is no infirmity or illegality in the order passed by the learned 23rd Metropolitan Magistrate, Saidapet, Chennai and this Court finds no reason to interfere with the said order. Hence, the criminal revision case is liable to be dismissed.

8. In the result, the order dated 11.03.2016 passed in M.P.No.3534 of 2015 passed by the learned 23rd Metropolitan Magistrate Court at Saidapet, Chennai is confirmed and the Criminal Revision Case is dismissed.

Sd/-
Asst.Registrar (CS II)

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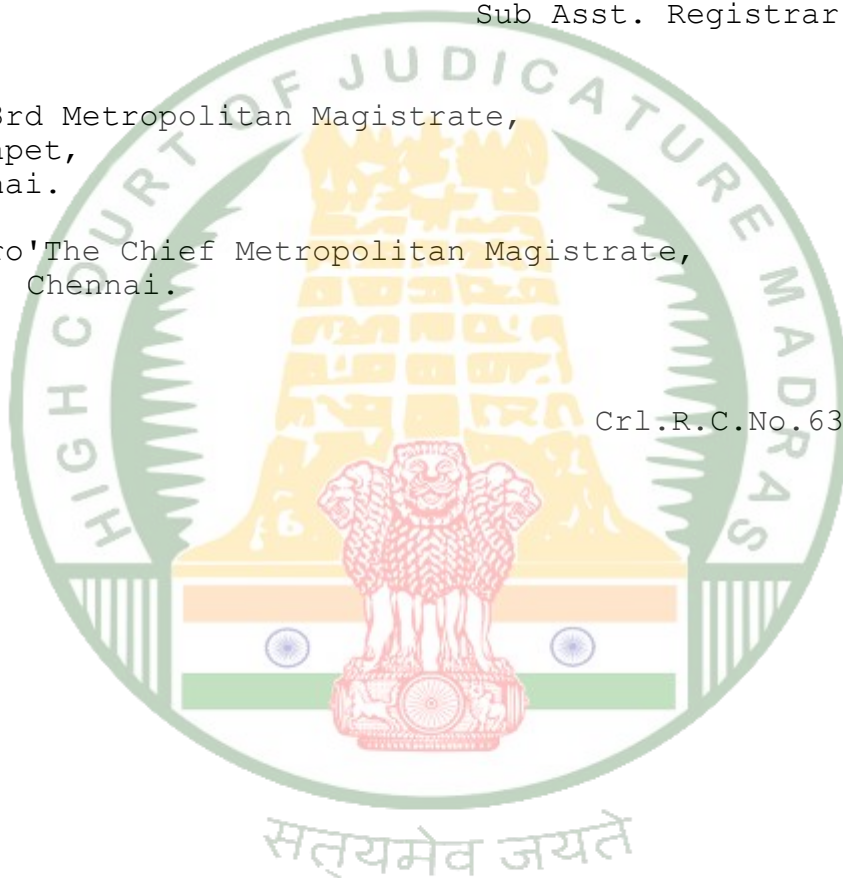
Sub Asst. Registrar

To

1. The 23rd Metropolitan Magistrate,
Saidapet,
Chennai.
2. do thro' The Chief Metropolitan Magistrate,
Egmore, Chennai.

ss(co)
krd 9/12

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