

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2016

CORAM :

THE HON'BLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.75 of 2016

Prabha

.. Petitioner

vs.

1.Babu

2.Sarojini

3.State by the Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.
Cr.No.28 of 2009

... Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of learned Principal District and Sessions
Judge, Coimbatore passed in CMP.No.733 of 2015 dated 04.11.2015.

For Petitioner : Mr.N.Manokaran.
For Respondents : Mr.M.Guruprasad for R1 & R2.
Mr.M.Mohammed Riyaz
Govt. Adv (Crl.side) for R3.

O R D E R

This revision arises against the order of learned Principal
District and Sessions Judge, Coimbatore passed in CMP.No.733 of
2015 dated 04.11.2015.

2.Against the findings of the trial Court in CC.No.2 of
2013 passed by the learned Judicial Magistrate, Additional
Mahila Court, Coimbatore dated 18.06.2014, the defacto
complainant preferred the petition in CMP.No.733 of 2015 to
condone the delay of 168 days in preferring the appeal. The
lower appellate Court dismissed the petition on 04.11.2015
stating that condonation of delay cannot be granted without any
reasonable ground and also the belated delay cannot be condoned.
Hence, the criminal revision is before this Court.

3.Heard both sides.

4. In dismissing the petition seeking to condone the delay of 162 days, the Court below has informed that the condonation of delay could not be effected without reasonable ground.

5. The lower appellate Court has reasoned for dismissal of delay petition as follows :-

On perusal of records the petitioner has not given any valid reason for the said delay, the Court has to consider the documents produced on either side. The documents 1 to 4 produced on the side of the petitioner relates to treatment undergone by the childrens and parents of the petitioner, from the above documents it is seen that the petitioner has taken care of them only for few days in the hospital and no documents have been produced to show that the petitioner was hospitalised for the said period. The trial Court passed the order on 18.06.2014 in CC.No.2 of 2013. On perusal of Ex.D2 copy of the affidavit and the adjournment diary in HMOP.No.235 of 2012 would show that the petitioner has appeared before the Family Court on 12.08.2014 and as per Ex.D8 the petitioner has applied for certified copy of the order in CC.No.2 of 2013 and paid the requisite fees. On perusal of Ex.D9 the certified copy of the order was made ready on 29.09.2014 and served on the counsel for the petitioner. Under such circumstances, the petitioner in her affidavit stated that she came to know about the order dated 18.06.2014 made in CC.No.2 of 2013 only during January 2015 is not acceptable and she has sworn in a false affidavit before the Court. Though, the petitioner has not stated any valid reason for the said delay, but, she has come to the Court with unclean hands, in the interest of justice, the trial Court dismissed the condone delay petition filed by the petitioner.

6. During the pendency of the present revision a sum of Rs.8,45,000/- has been paid i.e, major share of the arrears of maintenance payable to the petitioner has been made available to her. This Court is not inclined to interfere with the order of the lower appellate Court and the same does not warrant any interference by this Court.

7.In the result, the criminal revision stands dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

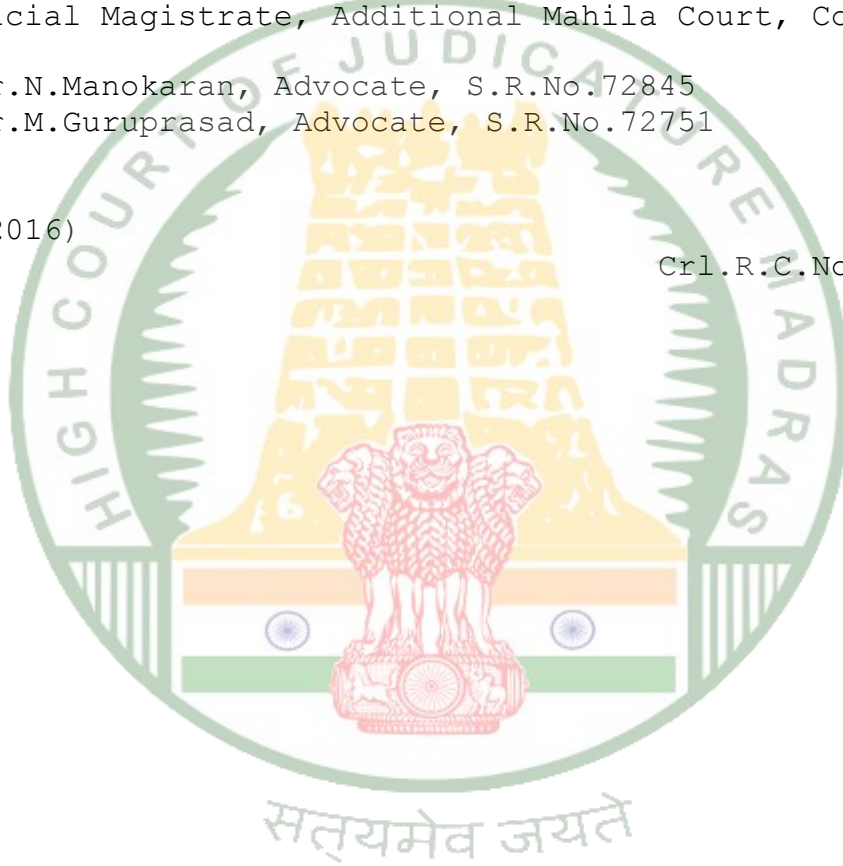
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To

- 1.The Principal District and Sessions Judge, Coimbatore.
- 2.The Judicial Magistrate, Additional Mahila Court, Coimbatore.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.72845
+1cc to Mr.M.Guruprasad, Advocate, S.R.No.72751

NM(CO)
BB(29/12/2016)

Cr1.R.C.No.75 of 2016



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