

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.780 of 2016
and Crl.M.P.No.5870 of 2016

Karri Sarojini Devi .. Petitioner/Respondent/Petitioner

..Vs..

Dantuluri Satya Surya Ramakrishnam Raju
... Complainant/Petitioner/Respondent

Prayer :-Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 15.02.2016 made in Crl.M.P.No.132 of 2016 in STC 464 of 2015 on the file of the Judicial Magistrate, Yanam, may be set aside by allowing the Criminal Revision.

For Petitioner : Mr.S.V.Ramamurthy

For Respondent : Mr.M.Ravi

ORDER

The criminal revision petition is directed against the order dated 15.02.2016 made in Crl.M.P.No.132 of 2016 in STC 464 of 2015 on the file of the learned Judicial Magistrate, Yanam.

2.The learned counsel for the petitioner contended that the respondent/complainant filed a petition in Crl.M.P.No.132 of 2016 in STC 464 of 2015 before the trial Court to condone the delay of 120 days in re-presenting the complaint. The said delay of 120 days has not been properly explained and there was no sufficient reasons stated in the petition. But, the Trial Court, without considering the above facts, allowed the said petition. Hence, the learned counsel for the petitioner submitted that the order passed by the learned Judicial Magistrate, Yanam, has to be set aside and the criminal revision has to be allowed.

3.The learned counsel for the respondent/complainant contended that the trial Court, after considering the facts and circumstances of the case, allowed the petition and therefore, there is no illegality or infirmity in the order passed by the trial Court and hence, the criminal revision has to be dismissed.

4.In this case, on a perusal of the order passed by the trial Court, it is seen that the complainant has filed the complaint under Section 138 of the Negotiable Instruments Act before the JFCM (P&E), Kakinada in time. The said complaint was taken on file in C.C.No.287/2014 and summons were also issued to the accused. Later on, on 21.11.2014, in view of the judgment of the Hon'ble Apex Court, reported in Dashrath Rupsingh Rathod in 2014 STPL 499 SC, the case was ordered to be returned to be presented before the proper Court, within 30 days. Therefore, the complainant ought to have filed the complaint in time before the learned Judicial Magistrate, Bhimavaram. But as it was not filed in time, it was re-presented along with an application under Section 142(b) of the N.I.Act. Subsequently, in view of the ordinance the complaint was again returned by the Judicial Magistrate Court, Bhimavaram and it was presented before the Judicial Magistrate Court, Yanam. At that time, there was a delay of 120 days and the said delay is neither willful nor wanton. The learned Judicial Magistrate, Yanam, being satisfied with the reasons stated in the affidavit filed in support of the petition, condoned the delay of 120 days in re-presenting the complaint. Hence, the argument of the learned counsel for the petitioner that since each and every day delay has not been properly explained, the petition has to be dismissed, is rejected.

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5.In view of the above said facts and circumstances, the order passed by the learned Judicial Magistrate, Yanam, deserves merit acceptance. This Court finds no illegality or infirmity in the order passed by the trial court and the same does not warrant any interference by this court and hence the criminal revision is liable to be dismissed.

6.In the result, the Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Yanam.

2.-Do- Thro The Chief Judicial Magistrate,
Puducherry.

+1cc to Mr.M.Ravi, Advocate Sr.48217

+1cc to Mr.A.R.Raghavan, Advocate Sr.48137

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srg 12/09/2016

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