

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on 26.07.2016)

Date of Verdict : 25.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.M.P.No.6130 of 2016
in
Crl.R.C.No.16256 of 2016

G.Gokul .. Petitioner

vs.

V.Kannan ... Respondent

Prayer in Criminal Miscellaneous Petition: This petition is filed under Section 5 of Limitation Act to condone the delay of 65 days in filing the criminal revision case against the judgment of conviction and sentence passed by the learned Principal Sessions Judge, Namakkal in Criminal Appeal No.18 of 2015 dated 28.10.2015 confirming the order of conviction and sentence passed in S.T.C.No.116 of 2014 dated 01.04.2015 on the file of the learned Judicial Magistrate (Fast Track), Tiruchengode.

Prayer in Criminal RC SR 16256 of 2016: This petition is filed under Section 397 and 401 of the Code of Criminal Procedure to call for the records in Criminal Appeal No.18 of 2015 dated 28.10.2015 on the file of the learned Principal Sessions Judge, Namakkal and to set aside the judgment of conviction and sentence passed in S.T.C. No.116 of 2016 dated 01.04.2015.

For Petitioner ... Mr.C.E.Pratab

For Respondent ... Mr.T.Dhanyakumar

O R D E R

This petition is filed to condone the delay of 65 days in filing the above criminal revision petition against the conviction and sentence passed by the learned Principal Sessions Judge, Namakkal in Crl.A.No.18 of 2015 dated 28.10.2015 confirming the order of conviction and sentence passed in S.T.C.No.116 of 2014 dated 01.04.2015 by the learned Judicial Magistrate (Fast Track), Tiruchengode.

2. The learned counsel appearing for the petitioner mainly contended that the petitioner/accused has met with an accident. Pursuant to the accident, he was bed ridden and hospitalized. Hence, he was not in a position to contact the lower court counsel to obtain a copy of the judgment. Therefore, a delay of 65 days had occurred in filing above CrI.R.C.No.16256 of 2016 and the delay is neither wilful nor wanton, but only due to the above stated bona-fide reasons. Hence, he prayed that the petition may be allowed.

3. The learned counsel appearing for the respondent contended that the reasons stated by the petitioner are not at all true. The petitioner has simply stated that he met with an accident and hospitalised, but, he did not produce any documents regarding the date of accident, date of admission, discharge summary etc. from the hospital to prove the accident. Since there is no bona-fide and sufficient reason to condone the delay of 65 days, the petition has to be dismissed.

4. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent and perused the materials available on record.

5. It is seen from the affidavit that the judgment in Criminal Appeal No.18 of 2015 was passed on 28.10.2015. The petitioner filed a copy application only on 19.11.2015 and a copy of the judgment was made ready on 26.11.2015. It is further seen that pursuant to the road accident, the revision petitioner was bed ridden and he curtailed his mobility. Hence, he was not in a position to pursue the filing of the criminal revision case in time. Except that, no other reason has been stated in the affidavit to condone the delay of 65 days and there are no particulars about the date of accident, date of recovery and the period of treatment etc. The petitioner without furnishing the above said details regarding the accident, filed the present petition to condone the delay of 65 days.

6. On a perusal of records, it is found that no document has been filed on the side of the revision petitioner to prove the reasons stated in the affidavit. The contention of the learned counsel for the respondent that the reason given by the revision petitioner that he met with an accident is not at all true and the petition has been filed only to drag on the matter. Since the alleged accident itself is denied by the respondent, it is the duty of the revision petitioner to prove that the accident had occurred by producing the documents viz., the date of admission, period of treatment, discharge summary etc. Under such circumstances, this Court is constrained to dismiss the condone delay petition as there is no merit.

7. In the result, the criminal revision petition is dismissed. Consequently, the Criminal Revision SR No.16256 of 2016 is rejected.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Principal Sessions Judge,
Namakkal.

2.The Judicial Magistrate
(Fast Track),
Tiruchengode.

+1 cc to Mr.T.Dhanyakumar,advocate,sr.61249

+1 cc to Mr.C.E.Pratap, advocate,sr.60794.

rj(co)
krd 8/12

Cr1.M.P.No.6130 of 2016 in
Cr1.R.C.No.SR16256 of 2016



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