



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the First day of July Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

WEB COPY

CRL MP(MD) No.3074 of 2016
IN
CRL A(MD) No.SR11341 of 2016

K. MOHANAN

... PETITIONER/PETITIONER

Vs

K. SARASWATHI

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to condone the delay of 318 days in filing the above Criminal Appeal along with Special leave as against the Judgment made in C.C.No. 40 of 2012 by the Judicial Magistrate No. II (Fast Track Court), Nagercoil dated 14.02.2015

Prayer in CRL A(MD) No.SR11341 of 2016:

To set aside the Judgment made in C.C.No.40 of 2012 by the Judicial Magistrate No.II (Fast Track Court), Nagercoil dated 14.02.2015.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the Petitioner and Respondent not appearing in person or by an Advocate and court made the following order:

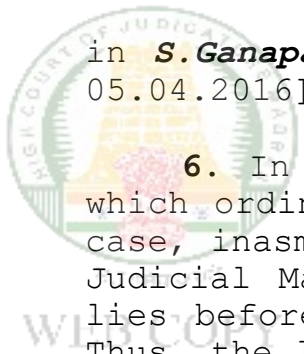
No representation for the petitioner. Respondent served. Her name also printed in today's cause list. None appeared for her.

2. This matter arises out of acquittal from a cheque bouncing case instituted in C.C.No.40 of 2012, on the file of the learned Judicial Magistrate No.II, Fast Track Court, Nagercoil. The order of acquittal was passed on 14.02.2015.

3. Aggrieved, the complainant seeks condonation of delay of 318 days caused in preferring appeal as against acquittal.

4. According to the petitioner, he suffered financial loss by the dishonouring of cheque, which is stated to have been issued in discharge of legally recoverable sum. So, on the one angle, he is a complainant. On the other angle, he is a victim of an offence. Though the coin has two sides, the colour of the coin is same. So, we can say that he is a complainant-cum-victim.

5. In such view of the matter, if he comes to this Court, he will be caught by the ratio laid down by a Full Bench of this Court



in **S.Ganapathy vs. Senthil** [Crl.A.(MD) Nos.347 of 2010 etc., dated 05.04.2016].

6. In the circumstances, he must go to the Appellate Court to which ordinarily an appeal will lie from the Trial Court. In this case, inasmuch as the order of acquittal was rendered by the learned Judicial Magistrate No.II, Fast Track Court, Nagercoil, the appeal lies before the Sessions Court, Kanyakumari District at Nagercoil. Thus, the learned Sessions Judge, Kanyakumari District at Nagercoil, will entertain the delay condonation petition and decide it on merits.

7. In view of the foregoing, it is ordered as under:

- (I) This petition is not maintainable in this Court.
- (ii) This petition shall be filed before the learned Sessions Judge, Kanyakumari District at Nagercoil, within 15 days from the date of receipt of the petition and its enclosures from the Registry.
- (iii) The Registrar (Judicial) will return the petition and the connected papers to the petitioner.

sd/-
01/07/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE, NO.II
FAST TRACK COURT, NAGERCOIL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI DISTRICT.

3.THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4.THE SESSIONS JUDGE, KANYAKUMARI DISTRICT AT NAGERCOIL.

ORDER
IN
CRL MP(MD) No.3074 of 2016
IN
CRL A(MD) No.SR11341 of 2016
Date :01/07/2016