

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

Crl.R.C.No.1476 of 2017
and Crl.M.P.No.14638 of 2017

A.K.Manikandan

... Revision Petitioner/Accused

versus

Rajendran

... Respondent / Complainant

Revision filed under Section 397 and 401 of Criminal Procedure Code, against the order dated 03.11.2017 passed by the learned Judicial Magistrate (FTC), Tiruchengode, in C.M.P.No.3659 of 2017 in unnumbered STC.

For Revision Petitioner : Mr.K.Ramanraj

ORDER

This Criminal Revision Case is filed challenging the order dated 03.11.2017 passed by the learned Judicial Magistrate, Tiruchengode, in C.M.P.No.3659 of 2017 allowing the petition filed by the respondent herein/complainant to condone the delay of 178 days in filing the complaint.

2. The learned counsel appearing for the revision petitioner/accused submits that the Court was not satisfied with the reasons stated in the affidavit, but, has however, chosen to allow the petition for condonation of delay subject to payment of costs.

3. A perusal of the order dated 03.11.2017 reveals that the learned Magistrate has felt that nipping the case in the bud would prevent the accused to go scott free and therefore, subject to payment of cost, the petition to condone the delay has been ordered.

4. The learned Magistrate has not stated as to whether the reasons stated in the affidavit for condonation of delay is acceptable or not acceptable. No medical records have been filed before the Magistrate to substantiate the reason for the delay. Therefore, it is clear from the order passed that the learned Magistrate was not in a position to decide as to whether

there is sufficient cause for condonation of delay or not. In such circumstances, the learned Magistrate has felt that instead of declining justice at the beginning, an opportunity to contest and present the case must be granted to the petitioner.

5. The learned counsel appearing for the revision petitioner/accused submits that there is no relationship at all between the complainant and the accused and the accused has a very good case on merits and therefore, the revision petition has to be admitted.

6. It is not the case of the accused that the case is a foisted or a false case or that no case is made out. The accused is only contesting the matter on the ground that no reason much less justifiable reason has been given for condoning the delay.

7. Though condonation of delay is not a matter of right, however, the same is always within the domain of the Court as to whether to allow it or not. Though the opposite party may have a say in the matter, however, it is always within the discretion of the Court to condone it or not. In such a scenario, the learned Magistrate, on broader consideration and for upholding the noble object of establishing justice, has condoned the delay. This Court finds no infirmity in such order passed by the trial court. It is always open to revision petitioner to contest the case on merits.

8. In the above circumstances, the revision petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate (FTC), Tiruchengode.

2.The Chief Judicial Magistrate, Namakkal.

+1cc to Mr.K.Ramaraj, Advocate, S.R.No.83317

Cr1.R.C.No.1476 of 2017

KGK(CO)

RRK(06/03/2018)