

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

Coram

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl. Revision Case No.20 of 2014

K. Narasimhan

... Petitioner/Complainant

//vs//

K. Mariappan

... Respondent/Accused

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the records in connection with the order passed by the learned Judicial Magistrate No.II, Namakkal on 17.08.2006 in C.M.P.No.2315 of 2005 and set aside the same and allow the revision.

For Petitioner : Mr.R.Thirugnanam
for
Mr. Ch.Pandian

For Respondent : No appearance

* * * *

ORDER

The present revision has been filed challenging the order dismissing the application, filed by the petitioner, under Section 142(b) r/w. 200 Cr.P.C. to condone the delay of 49 days, in filing the complaint.

2. The petitioner had filed a private complaint for an offence under Section 138 of the Negotiable Instruments Act. Since there is a delay of 49 days in filing the petition, he has filed a petition to condone the delay. Earlier, by an order dated 09.08.2005, the petition has been dismissed by the trial court. Challenging the same, the petitioner filed a revision in Crl.R.C.No.27 of 2005 on the file of the Principal District and Sessions Court, Namakkal and the revision court allowed the revision and remanded the matter back to the trial court for fresh consideration. On remand, once again the trial court dismissed the application. Challenging the same, the present revision has been filed.

3. When the matter was called on 05.04.2017, there was no representation for the respondent and hence, the matter was posted today. Even today, there is no representation for the respondent. In the above circumstances, this Court is constrained to proceed the case on merits.

4. I have heard the learned counsel appearing for the respondent

and perused the materials available on record carefully.

5. The reason stated by the petitioner for the delay was that he was suffering from Jaundice and taken treatment by country medicine and in order to prove the same, he examined himself as P.W.1 and also produced the medical certificates as Ex.P.1. But the court below dismissed the application stating that some contradiction in the statement.

6. Considering the fact that there is a delay of only 49 days and the petitioner also proved that he was suffering from jaundice, I am satisfied with the reason and I am inclined to allow the petition.

7. Accordingly, the petition is allowed and the delay is condoned and the court below is directed to take up the complaint and consider the complaint on merits and in accordance with law.

21.04.2017

mrp

To

1. The Principal District and Sessions Judge,
Namakkal.
2. The learned Judicial Magistrate No.II,
Namakkal

V.BHARATHIDASAN, J.

mrp

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