

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.03.2017

CORAM

THE HONOURABLE Mr.JUSTICE C.T.SELVAM

CRL.R.C.No.339 of 2017

S.Govindaraj

Petitioner

Vs

1.V.Balu

2.S.Seenu @ Seenuvasan

3.R.Muthaiah

Respondents

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., against the order passed by learned Principal Sessions Judge, Cuddalore in C.M.P.No.2911 of 2016 in unnumbered C.R.P./2016 dated 10.01.2017 & setaside the same consequently and direct the Learned Sessions Judge, Cuddalore to numbered CRP No.Unnumbered of 2016 against the order made in CC.C No.555 OF 2007 by the Learned Judicial Magistrate -III, Cuddalore.

For Petitioner : Mr.A.K.Velan

ORDER

This Criminal Revision Case is preferred against the order of the learned Principal Sessions Judge, Cuddalore passed in C.M.P.No.2911 of 2016 in an unnumbered CRP on 10.01.2017.

2. Under the impugned order, condonation of 2272 days delay in preferring revision before the Court below has been denied.

3. Paragraph Nos.6 and 7 of the impugned order, reads as follows :

"This court heard both sides and perused the records. On perusal of records, it is observed that the petitioner herein has filed private complaint before the learned Judicial Magistrate, No.1, Cuddalore in C.C.No.40/2007 and further connected police case also pending in C.C.No.339/2005. Thereafter two cases have been transferred to Judicial Magistrate No.III, Cuddalore and assigned

new numbers as CC.276/2007 and CC.555/2007 respectively. Thereafter due to non-appearance of petitioner and non-payment of process, the said private complaint case was dismissed on 17.2.2010. Further the trial Court also passed order by stating that the process fee not paid to issue summons to the accused A1 to A3 and the notice sent to complainant, no reply received, complaint dismissed u/s.204(4) Cr.P.C. No payment of process. Therefore it is clear that the complaint was dismissed for non-payment of process by the complainant. The complainant has raised the contention that the notice has not been served regarding the transfer of cases. But in para No.3 of affidavit, he categorically admitted that the intimation had given by learned Judicial Magistrate No.I, Cuddalore on 5.12.2007 about the transfer of cases from the learned Judicial Magistrate NO.I, Cuddalore to the file of Judicial Magistrate, No.III, Cuddalore. Thereafter the Judicial Magistrate, No.III has not intimated about the transfer of cases.

7. Once the petitioner has knowledge about the case from Judicial Magistrate, No.I, Cuddalore he has to take steps to follow up the case, but he has not taken any steps for more than 2272 days. Therefore the contention of the petitioner is that the Judicial Magistrate, No.III, Cuddalore has not intimated about the transfer of cases is not acceptable. Further the trial Court also issued notice to the complainant, but no reply received. Therefore no any fault on the side of the trial court, however it is the duty of the petitioner to watch out the case, but he has not taken care about the case upto 17.2.2010. Thereafter, for the past 6 years, he has not taken any steps to know about the case. Further he has not produced any documents to prove that he was affected by Jaundice and took treatment. The petitioner has failed to explain the huge delay of 2272 days. Therefore this court is of the opinion that the petition has no merits and deserves to be dismissed. Accordingly, this petition is dismissed. Thus the point is answered."

From the above, it is clear that the finding rendered by the Court below, is well a reasoned one.

4. In the result, this Criminal Revision Case is dismissed.

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Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1 The Principal Sessions Judge,
Cuddalore.

2 The Judicial Magistrate No.III,
Cuddalore.

+1 C.C. to MR.E.Sathiyaraj Advocate SR.NO.14003

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SVI (CO)
VS 13.03.2017



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