

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM :

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

**CRIMINAL REVISION Nos.518, 519 & 520 of 2014
and
M.P.Nos.1, 1, 1 of 2014**

J.Jayakrishnan .. Petitioner in all Crl.Rcs

Vs.

M/s. Gemini Industries and imaging
Private Limited
rep. By its authorized representative
Mr.C.V.Palanivelu,
New No.28, New Bangaru Colony,
West K.K.Nagar,
Chennai – 600 078. .. Respondent in all Crl.RCs

Prayer:

Crl.R.C.No.518 of 2014

Criminal Revision Petition filed under Section 397 r/w.401 of Cr.P.C. to set aside the order dated 12.05.2014 passed in M.P.No.4999 of 2012 in C.C.No.2800 of 2014 by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

Crl.R.C.No.519 of 2014

Criminal Revision Petition filed under Section 397 r/w.401 of Cr.P.C. to set aside the order dated 12.05.2014 passed in M.P.No.4998 of 2012 in C.C.No.2802 of 2014 by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

Crl.R.C.No.520 of 2014

Criminal Revision Petition filed under Section 397 r/w.401 of Cr.P.C. to set aside the order dated 12.05.2014 passed in M.P.No.4997 of 2012 in C.C.No.2801 of 2014 by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner in all Crl.R.Cs. : M/s M.Deivanandam

COMMON ORDER

Challenging the order condoning the delay of 229 days in filing the private complaints, the present revision has been filed.

2. The respondent herein filed three separate complaints, under Section 138 of Negotiable Instruments Act, against the petitioner. Since there was a delay of 229 days in filing complaints, the respondent filed the complaints along with three separate petitions under Section 142 C1(B) of the Negotiable Instruments Act to

condone the delay in filing the complaints before the XXIII Metropolitan Magistrate, Saidapet, Chennai. By order dated 12.05.2014, the learned Magistrate, allowed the said application thereby condoning the delay on the ground that the petitioner/accused was not present either in person or through a counsel. Challenging the same the present revision has been filed.

3. Eventhough notice was served on the respondent and its name was also printed in the cause list, none appeared for the respondent.

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

5. The learned counsel appearing for the petitioner submitted that in the petitions to condone the delay, no notice was served on the petitioners and without serving any notice, the Court below allowed the application by a cryptic and non speaking order. Apart from that now the matter has been settled between the parties and he has also produced the copy of the agreement and Memorandum of Understanding entered into between the petitioner and the respondent herein.

6. Even assuming that the petitioner/accused deliberately failed to appear before the court, the Court below ought not to have condoned the delay on such ground. The Court ought to have considered as to whether sufficient ground has been made out to condone the delay and passed appropriate orders on merits. But, the Court below without considering the case on merits has simply allowed the petitions thereby condoning the delay of 229 days in filing the complaints, which are not justifiable. In the above circumstances, the orders passed by the Court below are liable to be set aside.

7. In the result, all the Criminal Revision Petitions are allowed and the orders passed by the Court below are set aside. Consequently, connected Criminal Miscellaneous Petitions are closed.

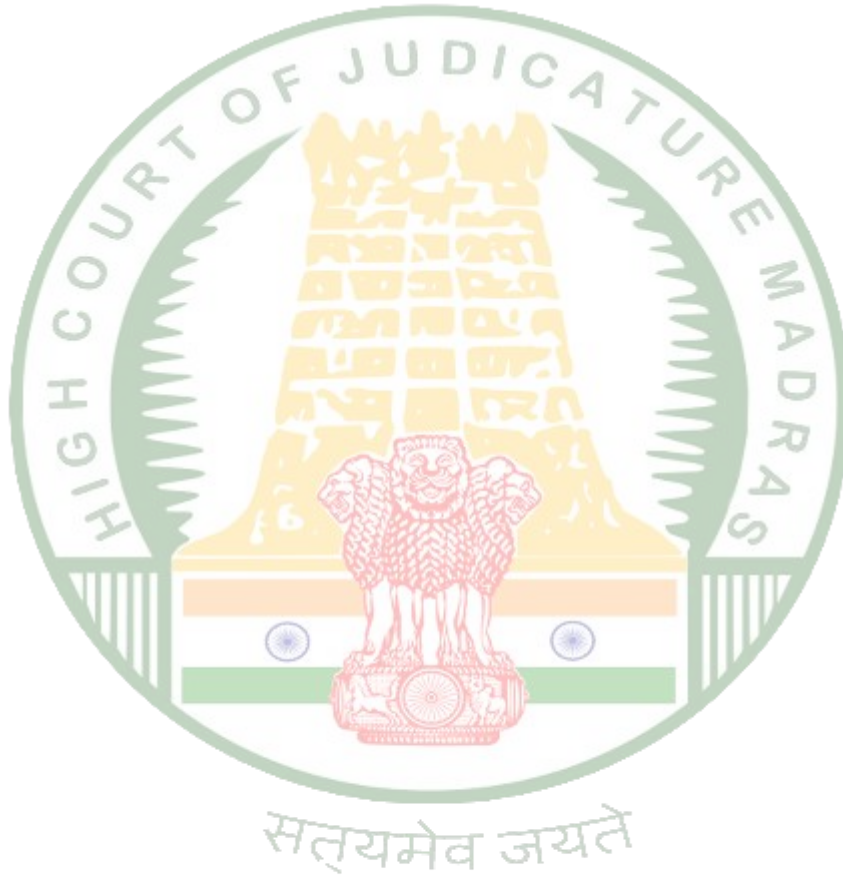
30.06.2017

Index : Yes/no
Internet : Yes/no
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To

1. XXIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Public Prosecutor,
High Court, Madras.



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V.BHARATHIDASAN, J.

mrp



**Crl.R.C.Nos.518 to 520
of 2014**

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