

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CrI.R.C. No.2351 of 2017

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C assailing the order dated 03.07.2017 in CrI.M.P.No.2232 of 2017 in CrI. (SR) No.166 of 2017 passed by the Metropolitan Sessions Judge, Cyberabad at L.B.Nagar dismissing the said petition to condone the delay of 557 days in filing the revision against the order dated 01.04.2015 in CrI.M.P.No.1849 of 2014 and 2203 of 2014 in D.V.C.No.8 of 2014 passed by the II Metropolitan Magistrate, Cyberabad, L.B.Nagar on the ground that as the petitioner suffered from jaundice, he was treated in the hospital and while so, he sent mediators to settle the dispute. Therefore, he did not prefer criminal revision case within time, thereby there is delay of 557 days, in filling criminal revision case.

2. The 1st respondent refuting the contentions raised by the petitioner submitted that the petitioner never suffered from Jaundice; that he approached the Court with unclean hands; that he is aware of every stage of the proceedings in DVC and CC; and that no mediation was taken place and thereby the cause shown by the petitioner is not sufficient to condone abnormal delay in filing the revision case.

3. Upon hearing the argument of both counsel, the Court below passed order dated 03.07.2017, which is now challenged in the revision filed under Section 379 Cr.P.C.

4. The main grievance of the petitioner is that he suffered from Jaundice for six months and he was treated in Government

Hospital, Khammam, thereafter, he could not meet his counsel and thereby he could not prefer revision against the said order, but the Court below did not consider the cause shown by the petitioner and committed an error in dismissing the petition and that the 2nd respondent having sufficient means to maintain herself as she is working as Hindi Pandit.

5. No doubt, there is a specific allegation in the affidavit that the petitioner suffered from Jaundice, but the period of sufferance was not mentioned. Though argument of the counsel that the petitioner suffered from jaundice and treated in the Government hospital at Khammam is accepted as true, but no medical certificate is produced to substantiate his contention. Therefore, the delay of 557 days in filing the revision cannot be condoned.

6. The other ground raised before this Court is that due to ill-health the petitioner could not contact his counsel to file revision.

7. The petitioner is admittedly resident of door No3-13-280, Rajivgandhinagar, L.B.Nagar, Hyderabad, which is at a distance of less than 20 kms to Hyderabad, but he engaged a counsel, in the present revision, who is the resident of Borabanda, Hyderabad, which is at a distance of 30 kms from the L.B.Nagar. Therefore, he was unable to contact his counsel, who is 30 kms away from his residence, for a period of one year is unbelievable. Hence, the ground urged in the petition for condonation of delay is not sufficient ground that means, the cause which is beyond the control of the petitioner. Therefore, the Court below rightly dismissed the petition and the order of the Court below does not call for any interference of this Court while exercising power under

Sections 397 and 401 Cr.P.C. and that the criminal revision case is liable to be dismissed at the stage of admission.

8. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in the criminal revision case, shall stand closed.

M. SATYANARAYANA MURTHY J

Date: 23.08.2017

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