

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.R.C.No.943 of 2017

ORDER:

This criminal revision case is filed under SectionS 397 and 401 Cr.P.C assailing the order dated 21.01.2017 in Crl.M.P.No.318 of 2016 passed by the Principal Sessions Judge, Nellore, which dismissed the petition to condone delay of 37 days in filing the appeal against the judgment dated 18.11.2015 in C.C.No.228 of 2012 passed by the Judicial Magistrate of First Class, Udayagiri.

2. The specific reason assigned by the petitioner is that she obtained certified copy of the judgment on 10.12.2015, but she was unable to approach the advocate to file appeal before the Sessions Judge as she suffered from gynec problem from first week of December, 2015 to 20th March, 2016. Hence, requested to condone delay in filing the appeal before the Sessions Judge against the order in calander case.

3. Respondents 1 to 4 filed counter denying the material allegations contending that in the absence of any medical evidence, delay cannot be condoned.

4. The Sessions Judge, upon hearing arguments of both counsel, disbelieved the plea of the petitioner that she was prevented by cause muchless sufficient cause which is beyond her control and dismissed the petition.

5. Aggrieved by the order passed by the Sessions Judge, the present revision is filed on various grounds and conveniently she filed Xerox copy of medical certificate issued by Pegasus Health Centre, Pragathinagar, Hyderabad, without any details.

6. Learned counsel for the petitioner contended that when she suffered from serious ill health, she could not approach the counsel to file appeal and in fact, she had gynecological problem during the period

of 37 days and the said contention is supported by medical certificate dated 05.12.2015 issued by Pegasus Health Care and requested this Court to afford opportunity to file appeal against judgment in calander case.

7. Learned counsel for the respondents opposed the same on the ground that the medical certificate produced by the petitioner is not genuine and it is invented for the purpose of present case and prayed to dismiss the revision case.

8. As seen from the allegations made in the affidavit, she suffered from gynec problem and she was on bed till March, 2016. Before the Sessions Judge the medical certificate was not produce. To substantiate the contention of the learned counsel for the petitioner that the petitioner was advised to take bed rest as she was suffering from gynecological problem. Conveniently, the present medical certificate is produced to cure the defect, as the Sessions Judge dismissed the petition on the ground that no medical certificate was produced. The certificate issued on 05.12.2015 certifying that Ch.Sujatha, aged 30 years is under his treatment for low back ache and white discharge and on examination she is diagnosed to have severe pelvic inflammatory disease and she advised for complete bed rest from 3rd December, 2015.

9. The petitioner is resident of Guvvadi Village, Varikuntapadu Mandal, SPSR Nellore District and she allegedly taken bed rest due to gynecological problem, but conveniently produced medical certificate issued by Pegasus Health Care, Hyderabad. Learned counsel contended that as she has no means, she was shifted to Hyderabad and underwent treatment. In fact, it is not her case in the affidavit, since certificate was obtained and produced before this Court, issued by Pegasus Health Care, different story is invented during hearing, for the first time though there was no such averment either before the Sessions Judge or in the revision

petitioner before this Court. Therefore, such contention cannot be accepted when the petitioner did not approach the Court with clean hands and produced a false certificate to obtain discretionary relief of condonation of delay under Section 5 of the Limitation Act as such the order passed by the Sessions Judge cannot be faulted. Therefore, I find no ground warranting interference with the order passed by the Sessions Judge and consequently, the criminal revision case is liable to be dismissed.

10. Accordingly, the criminal revision case is dismissed.

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

Date: 04.08.2017
kvrn

M. SATYANARAYANA MURTHY J

