

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :30.07.2018

Pronounced on :14.09.2018

Coram:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
Criminal Revision Case No.526 of 2018

A.Suji .. petitioner /Complainant
/versus/

1.E.Venkatesan .. Respondents
2.Kalaisevi

Criminal Revision Case filed by the petitioner under Sections 397 and 401 of Cr.P.C., praying to call for the records of the learned Fast Track, Magisterial Level No.II, Poonamallee, Tiruvallur District in C.M.P.No.6175 of 2017 and set aside the judgment dated 28.02.2018.

For Petitioner :Mr.N.Sudharsan
For Respondents :No Appearance for R1 and R2

O R D E R

The private complainant is the revision petitioner.

2. This revision petition is filed against the order made in C.M.P.No.6175 of 2017 on the file of the Fast Track Magistrate Level No.II, Ponamallee, Tiruvallur District, wherein the petition to condone delay of 58 days in preferring the complaint under Section 138 of Negotiable Instrument Act, has been dismissed.

3. The petitioner herein preferred a complaint under Section 138 of Negotiable Instrument Act with a petition to condone the delay of 58 days in preferring the complaint. The reason assigned for delay is that she was suffering from abdominal (uterus) problem for six months. So, she is not able to contact her counsel for giving instruction, that resulted in the delay.

4. It appears from the impugned order that notice was ordered in the condonation petition. Counter was also filed by the respondents, wherein they have alleged that they have received only Rs.2,50,000/- and not Rs.3,50,000/- as stated in the petition. During the loan condonation, they have also given signed blank cheques

and promissory-notes for the purpose of sureties and they have repaid a sum of Rs.2,38,000/- and the balance amount is Rs.12,000/- and they also contended that there is no bona fide reason for the delay.

5. On perusal of the transaction between the parties, the trial Court has found that the cheque is dated 20.06.2017 and the second respondent namely, Kalaiselvi is not a signatory to the cheque and a returned-memo is being dated 22.06.2017, stating for the reason of "Payment Stopped by Drawer". It is seen from the records that legal notice was issued on 21.07.2017 and reply notice was sent by the accused on 31.07.2017 and the complaint is filed only on 01.11.2017 and hence, there is a delay of 55 days.

6. It remains to be stated that the petitioner has come forward with a specific plea of abdominal problem for the past six months. It appears that he has not filed any medical certificate to substantiate her plea. She has already engaged an Advocate for issuance of legal notice and the notice was issued on 21.07.2017 and the same was served upon the accused on 22.07.2017. Hence, the trial Court has rightly come to the conclusion that the explanation offered by the petitioner for condonation of delay is insufficient, not reasonable and did not demonstrate sufficient cause to condone the delay.

7. In this view of the matter, the order passed by the trial Court does not warrant any interference. Hence, this Civil Revision Case is liable to be dismissed.

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

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

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To

1.The Fast Track Magistrate Level No.II, Poonamallee,
Tiruvallur Distirct.

+lcc to Mr.N.Sudharsan, Advocate SR.No.63606

Pre-delivery order made in
CrI.R.C.No.526 of 2018