

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Cr1.R.C.No.638 of 2018

T.K.Deepak

... Petitioner/Complainant

Vs.

D.Mohana Sundaram

... Respondent/Accused

PRAYER : The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed in C.M.P.No.358 of 2018 in UN.S.T.C.S.R.No.10688 of 2017 on the file of the Fast Track, Magisterial Level No.II, Poonamallee, Thiruvallur District dated 13.04.2018.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.M.Chidambaram

O R D E R

The present criminal revision case has been filed against the order passed in C.M.P.No.358 of 2018 in UN.S.T.C.S.R.No.10688 of 2017 on the file of the Fast Track Court, Magisterial Level No.II, Poonamallee, Thiruvallur District dated 13.04.2018, dismissing the petition to condone delay in filing the complaint under Section 138 of the Negotiable Instruments Act for the delay of 22 days.

2. According to the learned Magistrate, the reasons stated in the affidavit filed in support of the condone delay petition, was not acceptable, in view of the pendency of the Civil Suit between the parties. In the said circumstances, the condone delay petition was dismissed. As against that, the present revision case has been filed.

3. On behalf of the respondent, counter affidavit has been filed objecting to allow the present revision case.

4. Heard the learned counsel on both sides and perused the materials and pleadings placed on record. Admittedly, the delay in filing the complaint under Section 138(b) of the Negotiable Instruments Act, was only 22 days and on behalf of the petitioner, valid reasons were stated in the affidavit filed in support of this revision case that the cheques were misplaced and could not be traced within the time stipulated for filing the complaint.

5. Without going into the truthfulness of the reasons for condonation of delay, this Court is of the view that the short delay of 22 days need not be construed too strictly by the Court below and prevent the complaint being filed in regard to the commission of an offence under the provisions of the Negotiable Instruments Act. The Court below cannot adopt a pedantic approach in dismissing the condone delay petition for short delay of 22 days.

6. For the above said reasons, this Court is of the view that the order impugned in C.M.P.No.358 of 2018 in UN.S.T.C.S.R.No.10688 of 2017 dated 13.04.2018, is liable to be interfered with. Therefore, the same is set aside. The delay of 22 days in filing the complaint is hereby condoned. The Lower Court is directed to take the complaint on file.

7. The criminal revision case is allowed on the above terms.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gsk
To

The learned Judicial Magistrate,
Fast Track Court, Magisterial Level No.II,
Poonamallee, Thiruvallur District.

+1 CC to Mr.M.Chidambaram, Advocate sr 83137.
+1 CC to Mr.S.Sivakumar, Advocate sr 83086.

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RSI (CO)
SP(02/01/2019)