

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.374 of 2015

P. Kannan

...Petitioner/complainant

Vs.

T. Mayilsamy

...Respondent/Accused

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure to call for the records in C.M.P.No.4329 of 2014 in unnumbered C.C.No..... of 2014 dated 30.01.2015 on the file of the learned Judicial Magistrate No.1, Udumalpet and set aside the same by allowing revision.

For Petitioner : Mr.N.Umapathi

For Respondent : No appearance

O R D E R

The Revision Petition has been filed against the order of the the learned Judicial Magistrate No.1, Udumalpet in C.M.P.No.4329 of 2014, dated 30.01.2015. The petitioner has filed the petition in C.M.P.No.4329 of 2014 before the Court below to condone the delay in filing the complaint under Section 138 of Negotiable Instrument Act. According to the petitioner, the respondent herein is liable to pay a sum of Rs.2,00,000/- for which he issued a cheque in favour of the petitioner. Since, failed to repay the amount, he presented the cheque which was returned for want of sufficient funds. The petitioner sent a notice through Advocate on 22.02.2014. The same was returned with an endorsement ''Refused as not claimed and returned to sender''. The petitioner is supposed to have filed the complaint under Section 138 of Negotiable Instrument Act within the statutory period of 30 days, from the date of receipt of the returned notice. However, since the petitioner was affected from jaundice, he could not file the complaint within time. Therefore, he filed the petition to condone the delay of 44 days in filing the complaint under Section 138 of Negotiable Instrument Act. Later, the trial Judge has dismissed the petition by passing cryptic order. There is absolutely no reason assigned for dismissing the petition. It is settled principle is that

the length of delay is not important, what is important is reason for delay.

2. As failed to give any reasons for dismissing the petition. This Court is of the view that the petitioner should be given an opportunity. The order passed by the trial Court is set aside and the petitioner is directed to appear before the learned Judicial Magistrate No.1, Udumalpet on 10.10.2018.

3. The learned trial Judge is directed to hear the petitioner and pass orders in accordance with law. In the result, the Criminal Revision is allowed and C.M.P.No.4329 of 2014 is remitted back to the learned Judicial Magistrate No.1, Udumalpet.

Sd/-

Assistant Registrar(CS vii)

//True Copy//

Sub Assistant Registrar

To
The Judicial Magistrate No.1, Udumalpet

copy to
The section officer,
criminal Section,
High court
Madras

+1cc to Mr.N.UMAPATHI , Advocate SR.No. 62817

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ASK(05/10/2018)

सत्यमेव जयते

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