

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.Nos.23975 and 23979 of 2018 and
CRL.MP.Nos.13548 and 13551 of 2018

1.M/s.Ahuja Colour Lab,
Rep by its partner,
Mr.Bhupinder Singh Ahuja,
Gandhi Gate, No.131, Hall Bazar Market,
Amristar, Punjab - 143 001.

2.Bhupinder Singh Ahuja,
Gandhi Gate, No.131, Hall Bazar Market,
Amritsar, Punjab - 143 001.Petitioners in both Crl.O.Ps.

Vs

Nippon Enterprises South,
Rep by its Manager,
Mr.V.Swaminathan,
No.24 & 25, Sivaganga Road,
Off Sterling Road, Nungambakkam,
Chennai 600 034.Respondent in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C., praying to direct the Chief Metropolitan Magistrate at Egmore, Allikulam, Chennai to conduct enquiry, as to how unnumbered petitions for condoning delay in representation of the complaints in C.C.Nos.7240 and 7239 of 2014 respectively on the file of the Fast Track Court- II, Metropolitan Magistrate Court, Egmore at Allikulam, Chennai, were allowed when the very period sought to be condoned was 293 days where as from the adjudicating proceedings and from a bare perusal on the face of the records, it is very clear, that there is an enormous inexplicable delay of 738 days.

For Petitioners : Mr.M.Purushothaman

C O M M O N O R D E R

The petitioners are accused in C.C.Nos.7240 and 7239 of 2014 respectively on the file of the Fast Track Court - II, Metropolitan Magistrate Court, Allikulam, Egmore under Section 138 of the Negotiable Instruments Act. Originally, the complaints were filed by the complainant within the time prescribed by Section 138 of the Negotiable Instruments Act. Cognizance was taken on the complaints and the process was issued to the accused. The accused also entered appearance. During the pendency of the trial, the Hon'ble Supreme Court passed a judgment, Dashrath Rupsingh Rathod Vs. State of Maharashtra (2014) 9 SCC 129 in which the territorial jurisdiction for entertaining a complainant under Section 138 of the Negotiable Instruments Act was limited. Therefore, the complaints were returned to the complainant for re-representation before the jurisdictional Magistrate. The complainant collected the original complaints, but for the reasons best known to him, did not present the complaints before any Court.

2.While so, the parliament amended Negotiable Instruments Act and set naught the judgment of the Hon'ble Supreme Court in Dashrath Rupsingh Rathod (cited supra). Therefore, the complainant once again re-presented the complaint back to the Fast Track Court II, Metropolitan Magistrate Court, Allikulam, Egmore with a petition seeking condonation of 293 days in re-representation. This petition has been allowed by the Trial Court on 05.10.2016 and the case has been taken back on file. Now, the Trial is pending. While so, the accused has obtained certified copy of the order passed by the Trial Court in the said petition and has filed the present applications with the above prayer.

3.Heard the learned counsel for the petitioner/accused who submitted that as on the date of re-representation of the complaints before the Fast Track Court -II, Metropolitan Magistrate Court, Allikulam, Egmore, the delay was 738 days, but whereas the complainant has misrepresented it as 293 days.

4.In the opinion of this Court, whether it is 738 days or 293 days, it does not really matter, because the transfer and re-transfer was on account of the judgment of the Hon'ble Supreme Court in Dashrath Rupsingh Rathod case (cited supra) and the subsequent amendment of the Negotiable Instruments Act by the parliament. There is no statutory period of limitation fixed for re-representation. In a case of this nature, what the Magistrate was required to do is to see whether the complainant has re-presented the same bundle back to the Court. In this case, the same bundle has been re-presented back to the Court and therefore, there is no necessity to conduct any enquiry against the Magistrate as prayed for by the petitioners/accused.

5.Hence, these petitions are dismissed as devoid of merits. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

gsa/jas
To

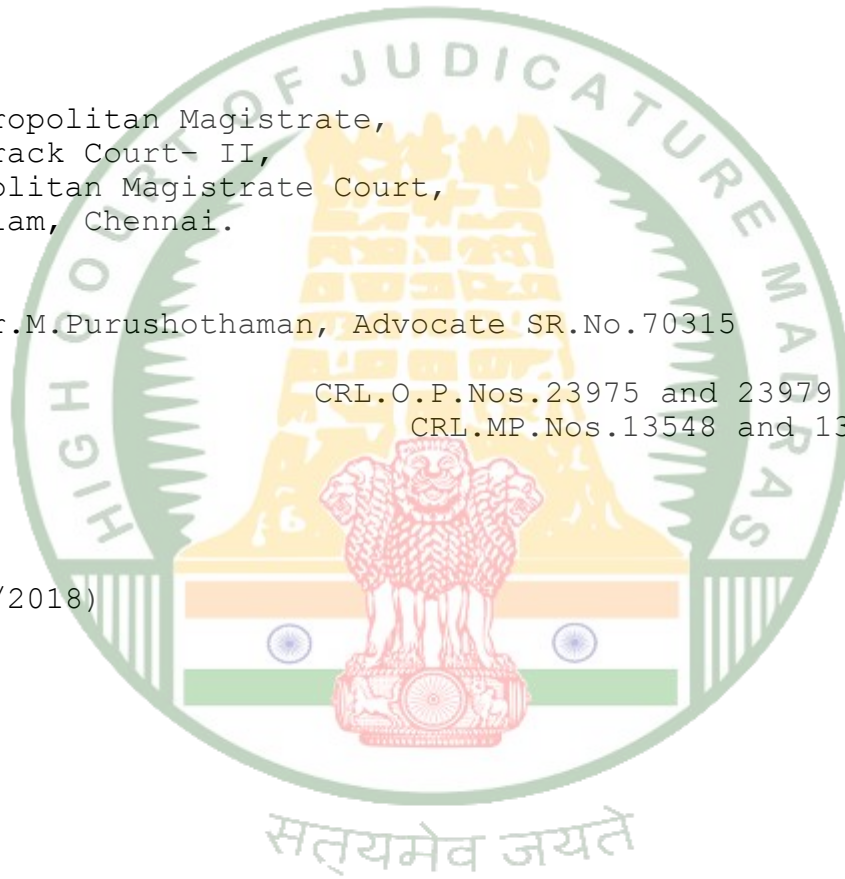
1.The Metropolitan Magistrate,
Fast Track Court- II,
Metropolitan Magistrate Court,
Allikulam, Chennai.

+2cc to Mr.M.Purushothaman, Advocate SR.No.70315

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KGK(CO)

GMV (30/10/2018)



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