



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD) No.101 of 2018

Tamilmaran

... Petitioner / Accused

vs.

Shanmugam

... Respondent/Complainant

PRAYER: Criminal revision filed, under Sections 397(1) and 401 of Cr.P.C., to call for the records in Cr.M.P.No.1457 of 2017 in Crl.A.SR.No.5470 of 2017 on the file of the Learned Sessions Judge, Tiruchirappalli Division, Tiruchirappalli District and set aside the Order dated 25.10.2017.

For Petitioner : Mr.A.Thiruvadikumar

For Respondent : Mr.B.Jameel Arasu

O R D E R

For the sake of convenience, the petitioner and the respondent herein are referred to as "the accused" and "the complainant" respectively in this order.

2.The complainant initiated proceedings in S.T.C.No.23 of 2016 before the learned Judicial Magistrate, Manaparai under Section 138 of the Negotiable Instruments Act against the accused, in which, by judgment dated 17.03.2017, the trial Court convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and to pay a sum of Rs.5,00,000/- towards the cheque amount as compensation to the complainant. Challenging the conviction and sentence, the accused filed Criminal Appeal SR No.5470 of 2017 with a delay of 45 days and therefore, he filed Cr.M.P.No.1457 of 2017 under Section 5 of the Limitation Act for condonation of delay, which has been dismissed by the learned Sessions Judge, Tiruchirappalli on 25.10.2017. Aggrieved by which, the accused is before this Court with the present Criminal Revision Case.

3.Heard Mr.A.Thiruvadikumar, learned counsel for the accused and Mr.B.Jameel Arasu, learned counsel for the respondent.



4.Mr.A.Thiruvadikumar, learned counsel for the petitioner submitted that the accused had met with an accident on 11.10.2015, on account of which he suffered head injuries and therefore, he was not able to file the appeal in time. He further submitted that in the application filed for condonation of delay before the appellate Court, the reason that he was suffering from jaundice was not the right reason but he was not able to file the appeal in time because he was continuously facing ill-health pursuant to the head injury suffered.

5.Mr.B.Jameel Arasu, learned counsel for the respondent also did not refute the fact that the accused had been committed to the prison. However, he strongly sustained the impugned order.

6.This Court gave its anxious consideration to the rival submissions.

7.Under normal circumstances, this Court would not interfere into such orders. However, it is represented that the accused has been arrested and has been committed to the prison on 02.03.2018 and is in custody till then. Since the accused is in custody, interest of justice will be served, if the delay of 45 days is condoned, so that the accused get one more opportunity to argue his case before the Sessions Court.

8.In such view of the matter, this Criminal Revision Case is allowed and the order dated 25.10.2017 passed by the learned Session Judge, Tiruchirappalli in Cr.M.P.No.1457 of 2017 is set aside and the delay of 45 days stands condoned. The Sessions Judge, Tiruchirappalli is directed to number CrI.A. SR No.5470 of 2017, if the same is otherwise in order.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To:

1.The Sessions Judge,

Tiruchirappalli Division, Tiruchirappalli District.

2.The Judicial Magistrate, Manaparai.

+One cc to M/s.B.Jameel Arasu, Advocate, SR.No.55840

+One cc to M/s.A.Thiruvadi Kumar, Advocate, SR.No.55436

sj

RL/5C/2P/KK/SAR2/21/3/2018

CrI.R.C.(MD) No.101 of 2018