



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.09.2018**

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CrI.RC. (MD) No.146 of 2014

WEB COPY

A.Kartheeswari

: Petitioner / Complainant

Vs.

K.Muralitharan

: Respondent / Accused

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of Criminal Procedure Code to set aside the dismissal order dated 25.10.2013 in Cr.M.P.No.6376 of 2013 in unnumbered C.C. Of 2014 on the file of the Judicial Magistrate, Sivakasi by allowing this revision petition.

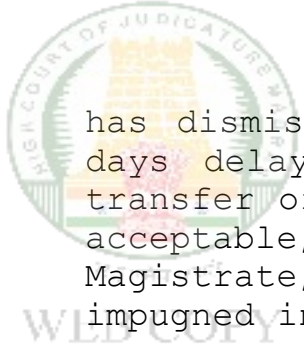
For Petitioner: Mr.S.Selvakumar

JUDGMENT

Heard the learned counsel appearing for the petitioner.

2. This Revision Petition has been filed to direct against the dismissal of petition filed by the complainant to condone the delay of 200 days in preferring his complaint under Section 138 of Negotiable Instrument Act. When this Revision Petition was taken up for admission on 25.02.2014, this Court has permitted the revision petitioner herein to take private notice returnable by two weeks. Till date, the Revision Petitioner has not taken any steps to serve notice. As far as the Court notice is concerned, the notice has been returned as Un-served. After a lapse of four years, the matter is now listed today. Today (i.e., 19.09.2018), the learned counsel appearing for the revision petitioner would submit that one more chance may be given for the revision petitioner to take notice.

3. Perusal of the records indicates that a cheque was issued to the petitioner by the respondent during the month of August 2012 and the same was returned as "in-sufficiency of fund". The revision petitioner herein thought it fit to file a petition under Section 138 of Negotiable Instruments Act, on the file of the learned Judicial Magistrate, Sivakasi, after a lapse of 200 days. The Court below has ordered notice in CrI.M.P.No.6376 of 2013. The respondent had not appeared, so he was called absent and set *ex parte*. Thereafter, on considering the reasons stated for condonation of delay of 200 days in the light of the proviso under Section 142 of Negotiable Instruments Act, the trial Court



has dismissed the application, recording that the reason for 200 days delay is attributed to the misplacement of cheque due to transfer of office. Since the inordinate delay of 200 days is unacceptable, the petition was dismissed by the learned Judicial Magistrate, Sivakasi in Crl.M.P.No.6376 of 2013, which is now impugned in this Revision Petition.

4. This Court finds that the delay of 200 days in preferring a complaint has not been properly explained and the petitioner, who claims to be in business transaction with the respondent / accused, has not properly explained the delay. Therefore, the trial Court has rightly dismissed the delay condonation petition. This Revision Petition is kept pending for more than four years and the revision petitioner herein has not shown any interest to serve notice on the respondent. The conduct of the revision petitioner clearly indicates that without any merit, he wants to keep the litigation pending.

5. This Court finds no merit in the Revision Petition and the same stands dismissed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

Sub Assistant Registrar(CS-III)

To

The Judicial Magistrate,
Sivakasi.

TSG

BU/RP/SAR-III : 10 .10.2018 : 2P/2C

Judgment made in
Crl.RC.(MD)No.146 of 2014
19.09.2018