

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 11.01.2018****CORAM:****THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Cr1.R.C. (MD) No.833 of 2017**

G.Govinath

... Petitioner/Petitioner

vs.

Subramanian
S/o.Arunachalam Nadar
prop. : Raja Tex
Veerapandiakattabomman Street
Kolathupalayam Main Road
Vengamedu, Karur

... Respondent/Respondent

PRAYER: Criminal revision filed, under Sections 397 r/w 401 Cr.P.C., to call for the records of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Karur, in Cr.M.P.No.914 of 2015 and set aside the order, dated 28.12.2016.

For Petitioner : Mr.S.Deenadhayalan

For Respondent : Mr.D.Balamurugapandi

O R D E R

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

2. The complainant initiated prosecution under Section 138 of the Negotiable Instruments Act, before the Fast Track Court at Magisterial Level, Karur, with a delay of 154 days. Therefore, the complainant filed a petition in C.M.P.No.914 of 2015, under Section 142 N.I.Act for the condonation of delay in filing the complaint. In the affidavit filed by the complainant for the condonation of delay, he has stated as follows:

"3.It is admitted that I was suffering from typhoid fever for which Doctor advised to take bed rest, hence I was unable to proceed with the case. Now only I recovered from illness and met my advocate he intimated that on 23.7.2014 itself the period of 30 days fixed by the statute expires. The non presentation of the complaint



within time was neither willful nor wanton and the same is beyond my control."

The Trial Court ordered notice to the accused and after hearing both sides, by the impugned order dated 28.12.2016, dismissed the delay condonation application. Challenging the same, the complainant has preferred the present revision.

3. Heard Mr.S.Deenadhayalan, learned counsel for the complainant and Mr.D.Balamurugapandi, learned counsel for the accused and perused the materials filed in the form of typed set.

4. The Trial Court has dismissed the delay condonation application on the ground that the complainant had not produced even the medical certificate or prescription in support of his contentions. Therefore, this Court adjourned the matter from 02.01.2018 so as to give opportunity for the complainant to produce some medical records at least before this Court. Today, the learned counsel for the complainant fairly submitted that there is no medical record or prescription available with the complainant. Under such circumstances, this Court does not find any infirmity or illegality in the order passed by the Court below warranting interference of this Court.

5. In the result, the criminal revision is devoid of merits and it is dismissed. However, the complainant is at liberty to workout his remedy in the manner known to law.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate
Fast Track Court at Magisterial Level,
Karur.

+1cc to Mr.D.Balamurugapandi, Advocate Sr.No.41836

+1cc to Mr.S.Deenadhayalan, Advocate Sr.No.41978

KRK

VB/KK/SAR2/25/01/2018/2P/4C

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