



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD)No.413 of 2018

WEB COPY

Jeyaraman

.. Petitioner/ Petitioner
/Complainant

Vs.

Saravanan

.. Respondent/ Respondent
Accused

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order of dismissal of condone delay petition to prefer to appeal passed by the Learned Principal District and Sessions Judge, Pudukottai dated 28.02.2018.

For Petitioner : Mr.M.Suresh

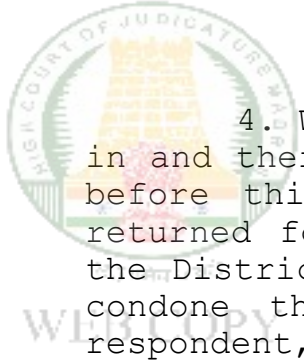
For Respondent : No Appearance

ORDER

This Revision Petition is preferred against the order of dismissal passed by the Principal District and Sessions Judge, Pudukkottai.

2. The petitioner herein, is the complainant in S.T.C.No.1056 of 2008 filed under Section 138 of Negotiable Instruments Act against one Saravanan, for dishonoring cheque of Rs.4,65,000/- (Rupees Four Lakhs Sixty Five Thousand only). After filing this complaint, when the matter was taken up for trial, the petitioner/complainant has mounted the witness box and was examined in chief and thereafter, the matter was adjourned for cross examination. For three hearings, there was no representation on behalf of the petitioner/complainant and therefore, the trial Court on 23.11.2012 has dismissed the complaint under Section 256 Cr.P.C., recording the non-representation of the petitioner/complainant for three hearings and presence of the accused.

3. Aggrieved by that, it appears that the petitioner/complainant has preferred an Appeal in Crl.A.(MD)No.SR8053 before this Court, but the Registry, on 18.03.2013, has not numbered the same and returned it on the ground of maintainability and for want of jurisdiction. Thereafter, the petitioner/complainant herein, has moved the Principal District and Sessions Court in the month of January 2017 to set aside the dismissal order of the trial Court.



4. While preferring this Appeal, 1472 days of delay has crept in and therefore, stating the reason that, he has perused an Appeal before this Court in CrI.A.(MD)No.SR8053 and since the same was returned for want of jurisdiction, he has moved the Appeal before the District Court. The District Court, considering the petition to condone the delay of 1472 days and the counter filed by the respondent, dismissed the petition stating that, when the impugned order of dismissal was passed by the trial Court on 23.11.2012, the present Appeal is preferred after four years with enormous delay and no records have been produced to substantiate the fact that, the petitioner preferred an Appeal before the Madurai Bench of Madras High Court and it was returned for lack of jurisdiction.

5. Learned counsel appearing for the petitioner/complainant would further submit that along with the condonation delay petition, he filed the docket order on the grounds of Criminal Appeal preferred before the Madurai Bench of Madras High Court in CrI.A.(MD)No.SR8053, de hors of that, the trial Court has dismissed the condone delay petition on the ground that, no documents have been filed.

6. This Court on perusal of the typed set of papers could see that the petitioner/complainant herein, after dismissal of his complaint in S.T.C.No.1056 of 2008 on 23.11.2012 has preferred this Criminal Appeal before the Madurai Bench of this Court during the month of January 2013. Registry of this Court has returned the appeal papers on 18.03.2013 stating that, (i) there is a delay in filing the Appeal, (ii) provision of law require revision, (iii) petition for special leave not filed and (iv) typed set of papers not filed. Thereafter, the petitioner has neither re-presented the petition nor approached the District Court immediately.

7. We find that the petitioner/complainant has approached the District Court only in the month of January 2017 (i.e.,) after a lapse of 4 years to revive his complaint. An Appeal was filed after a delay of 1472 days (the reason for waiting for a period of four years, has not been stated in the petition). The reason for delay as stated by the petitioner attributed approaching this Court could be valid and acceptable only till 18.03.2013 and not thereafter. For four years period, from 18.03.2013 to January 2017, this Court finds that no sufficient or satisfactory reason for the delay.

8. Accordingly, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CrI.side)

/True Copy/



To

The Principal District and Sessions Judge,
Pudukottai.

+1CC to Mr.M.Suresh, Advocate, SR.No.78319

Cr1.R.C.(MD)No.413 of 2018
11.08.2018

STS

ES/SV/SAR 3/14.09.2018/3P/3C