



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM :

WEB COPY

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Cr1.R.C. (MD) .No.490 of 2018

M.Kalidasan

... Petitioner/ Complainant

Vs.

M.Ilayaraja

... Respondent / Accused

Prayer: Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, praying to call for the records of the order in S.T.C.No.31 of 2015 by the Judicial Magistrate (Fast Track Court), Karaikudi dated 17.02.2017 and set aside the same and further direct to restore S.T.C.No.31 of 2015 to the file of the Judicial Magistrate (Fast Track Court), Karaikudi, and proceed further in accordance with law.

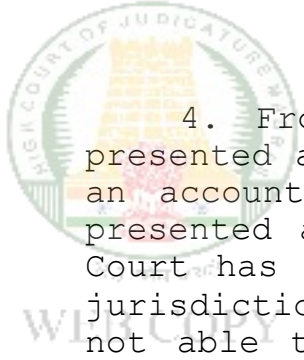
For Appellant : Mr.M.P.Senthil

ORDER

This Criminal Revision Case has been filed with a delay of 91 days to call for the records of the order in S.T.C.No.31 of 2015 by the Judicial Magistrate (Fast Track Court), Karaikudi, dated 17.02.2017 and set aside the same and further direct to restore S.T.C.No.31 of 2015 to the file of the Judicial Magistrate (Fast Track Court), Karaikudi, and proceed further in accordance with law.

2. In view of the facts in this case, the delay is condoned and this Court takes up the criminal revision case itself for final disposal.

3. The facts of the case are that the cheque, dated 09.12.2014 issued by the respondent drawn at Axis Bank Limited, Karaikudi for a sum of Rs.6,30,000/- in favour of the revision petitioner M.Kalidasan, was returned with an endorsement "Bank Account closed". Since the memo of IDBI Bank was issued from the Centralized clearing unit, Nandhanam Branch, Chennai, the trial Court had wrongly construed that the cheque was presented at Chennai and in view of the new amendment under Section 142 (2) of the Negotiable Instruments Act in the year 2015, transferred the case to Chennai without perusing the documents appropriately.



4. From the records, this Court finds that the cheque was presented at IDBI Bank, Karaikudi Branch, where the payee is having an account. The memo of the bank indicates that the cheque was presented at Karaikudi Branch. While the fact being so, the trial Court has erroneously transferred the case to Chennai for want of jurisdiction. Since the *de facto* complainant / petitioner herein was not able to get the records in time, after lapse of four years, notice was sent to the respondent / accused returned with an endorsement that he has left the country.

5. Due to the error of the trial Court, the party has to put sufferance. To mitigate the miscarriage of justice, this Court condone the delay in filing the revision petition and allow this criminal revision case, directing the learned Metropolitan Magistrate, Fast Track Court, Saidapet, Chennai, to send back the records pertaining to this case to the learned Judicial Magistrate, Karaikudi forthwith, on receipt of a copy of this order. The learned Judicial Magistrate, Karaikudi, shall cause notice to the respondent and proceed with the trial in accordance with law.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Metropolitan Magistrate,
Fast Track Court, Saidapet, Chennai,
2. The Judicial Magistrate (Fast Track Court),
Karaikudi.
3. The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

SM

TE/SKN/SAR-2 : 10/09/2018 : 2P/5C

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