

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Crl.R.C.No.1339 of 2012

ORDER:

The petitioner challenges the order dated 02.07.2012 in Crl.M.P.No.1004 in CC (SR) No.1530 of 2011 passed by V Additional Judicial Magistrate of First Class, Kakinada whereunder the learned Magistrate dismissed the petition filed under Section 142(B) of Negotiable Instruments Act (for short "NI Act") r/w 127 of Criminal Rules of Practice to condone the delay of 111 days in filing the complaint.

2) The petitioner filed CC (SR) No.1530 of 2011 under Section 138 of NI Act against the respondent on the allegation that cheque for Rs.1,90,000/- issued by the respondent for legally enforceable debt was bounced back when presented with his banker. Since there was a delay of 111 days in filing the complaint, he filed Crl.M.P.No.1004 of 2011 to condone the said delay showing the reason for delay to the effect that during the relevant time he was suffering from Jaundice for about 90 days and after recovery while filing the complaint the delay was occurred.

3) Respondent opposed the petition.

4) The learned Magistrate observed the Doctor advised him to take rest for two months and the medical record showed the period of two months expired on 29.10.2010 and thereafter the petitioner still had

time to file the complaint, but he filed complaint only on 24.02.2011 and there was no proper explanation for such huge delay. With such observation the trial Court dismissed the petition.

Hence the instant CrI.R.C.

5) Notice served on respondent, but there is no representation. Heard learned counsel for petitioner and perused the impugned order.

6) As can be seen from the impugned order, for a major part of delay the petitioner could show the plausible ground to the effect that due to Jaundice he was under rest for two months and thereafter while he filed the complaint, there occurred a delay. Having considered this fact and also that valuable rights of the complainant are at stake in criminal case, this Court intends to allow the CrI.R.C.

7) In the result, this Criminal Revision Case is allowed by setting aside the impugned order. The trial Court is directed to register the CC and adjudicate upon the matter as per law.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 29.11.2018
Murthy