

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.2096 OF 2017

ORDER:

This revision is filed aggrieved by the order dated 08.06.2017 passed in CrI.M.P.No.2524 of 2016 in C.C.(S.R.) No.7765 of 2013 by the V Additional Judicial First Class Magistrate, Kakinada, whereby the delay of 1139 days in representation was allowed by the Court below.

Heard the learned counsel for the petitioner. No representation for the respondent/complainant. Perused the record.

Learned counsel for the petitioner would submit that once limitation starts, it cannot be extended. As per Section 468 Cr.P.C., the limitation to file a complaint for the offence punishable under Section 138 of Negotiable Instruments Act is 30 days. The Court has to take cognizance within the stipulated time. The Court has no power to condone the delay in representation and ultimately prayed to set aside the impugned order.

As seen from the material placed on record, the counsel for the complainant searched for the records misplaced by his clerk. The clerk was negligent and played fraud on the Advocate. The Advocate on record removed his clerk. It is also contended on behalf of the complainant that there was no negligence either on the part of the counsel or the complainant in complying the objections. After the case file was traced, immediately it was represented with a delay of three years. The Court below while dealing with the same held that there was proper explanation for the delay in re-submission though the complaint under Section

138 of Negotiable Instruments Act was represented after three years of its return.

Under these circumstances, the Court below is not precluded from taking cognizance against the petitioner/accused for the offence punishable under Section 138 of Negotiable Instruments Act. Further, the Court below while dealing with the matter had elaborately dealt with all the contentions raised on behalf of the petitioner/accused. There is no miscarriage of justice. There is nothing to interfere with the impugned order. As such, the revision is liable to be dismissed.

In the result, the Criminal Revision Case is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

23rd April, 2018.
ssp

Dr. SHAMEEM AKTHER, J

