

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos. 2 to 5 of 2019

Nandhi Dhall Mills

Rep by its Managing Partner,

S.A.Kumar, 59 Years/2018,

S/o. Late Shri T.V.Arunachala Nadar,

270, Narasimman Road, Shevapet, Salem-636 002.

... Petitioner in all Criminal Revision
petitions

Vs

1. Shree SATHYAM Charitable Trust,

Rep by Chairman Tmt. Sujatha,

Survey No. 213, Manjakalpatty,

Devannagoundanur Post, Sankariri Taluk,

Salem - 637 301.

2. Mrs.Sujatha

3. Mrs.Malarvzhi

4. Mr.Kathamuthu

5. Mr.Sathasivan

6. Mr.Balakrishnan ... Respondents in all Criminal Revision
petitions

COMMON PRAYER: Criminal Revision Case filed under Article 397 r/w 401 of Criminal Procedure Code, to call for records and set aside the order dated 14th December 2018 in CMP Nos. 2747, 2746, 2744 & 2745 of 2018 respectively on the file of District and Session Court, Salem.

For Petitioner : Mr.B.A.Sujay Prasanna
(in all Criminal Revision petitions)

For Respondents : Mr.Naveen kumar
for R2, R3, R4 & R6
Notice not served to R1 & R5

C O M M O N O R D E R

The revision petitioner is the complainant and he filed a complaint before the learned Judicial Magistrate I, Salem against the respondents for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and the learned Judge therein, at the request of the parties, permitted to withdraw the cases in STC.Nos. 2348, 2351, 2350 and 2349 of 2015 respectively and therefore, the matters were dismissed as withdrawn.

2. Challenging the same, the petitioner preferred appeals against the orders of the learned Judicial Magistrate I, Salem in STC.Nos. 2348, 2351, 2350 and 2349 of 2015. Thereafter, the petitioner filed petitions in CMP.Nos. 2747, 2745, 2744 and 2746 of 2018 respectively on the file of the learned District and Session Court, Salem to condone the delay of 84 days in preferring appeals against the order of the learned Judicial Magistrate I, Salem.

3. The learned Senior counsel appearing for the petitioner would submit that while considering the petition to condone the delay, the learned District and Session Judge touched upon the case on merits and therefore, it warrants interference of this Court.

4. The learned counsel appearing for the respondent would submit that the learned Judge has observed that the petitioner's side did not provide sufficient reasons to condone the delay. Therefore, he would submit that there is no perversity in the order passed by the learned District and Session Judge in dismissing the said CMPs.

5. Heard both sides and perused the materials available on record.

6. A perusal of the order passed by the learned District and Sessions Judge, Salem clearly shows that the learned Judge has dismissed the petitions filed to condone the delay by considering the cases on merits. When the petitions were only filed for condoning delay, the learned Judge ought not have considered the case on merits.

7. In this view of the matter, the orders passed by the learned District and Sessions Judge, Salem in CMP.Nos. 2747, 2745, 2744 and 2746 of 2018 are set aside and matters are remitted back to the learned District and Session Court, Salem. Therefore, the parties are directed to appear before the learned District and Session Judge, Salem on the date of hearing and make their respective submissions.

8. The learned Sessions Judge is directed to take CMP.Nos. 2747, 2745, 2744 and 2746 of 2018 on the file and dispose of the same in accordance with law.

9. Accordingly, the Criminal Revision petitions stand allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

1.The District and Sessions Court,
Salem.

2.The Judicial Magistrate-I,
Salem.

Copy to

The Section Officer,
Criminal Section (Records),
High Court, Madras.

cp[co]
srg 25/11/2019