

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1051 of 2018
and
Crl.M.P.Nos.1436 & 1438 of 2019

R.Tamilarasan .. Petitioner

Vs

P.Ravi
Represented by his Power of Attorney Agent
K.Prakash .. Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, to set aside the order, dated 25.04.2018 made by the Principal Sessions Judge, Namakkal in Criminal Revision Petition No.14/2017, reversing the order, dated 17.06.2017, passed by Judicial Magistrate, Tiruchengode in CMP.No.2678 of 2016.

For Petitioner : Mr.SP.Chockalingam
For Respondent : Mr.C.Paraneedharan

ORDER

This revision has been filed against the order dated 25.04.2018 passed by the Principal Sessions Judge, Namakkal in Crl.R.C.14/2017, reversing the order dated 17.06.2017 passed by the Judicial Magistrate, Tiruchengode in CMP.No.2678 of 2016.

2.The respondent filed a private complaint against the revision petitioner before the Magistrate. Since he could not file the complaint within the period of limitation, he had filed the petition to condone the delay of 39 days in filing the private complaint that petition was dismissed by the Magistrate stating that Principal cannot say that since the agent was ill and therefore, he was awaiting for filing the complaint for 39 days. Therefore dismissed the petition. Against which the respondent filed the revision before the Sessions Judge to set aside the order in CMP.No.2678/2016 dated 17.06.2017 passed by the learned Judicial Magistrate, Tiruchengod. After considering the materials, the Sessions Judge allowed the Crl.R.C.No.14/2017. Against which the revision petitioner has preferred the present revision before this Court.

3.Though the learned Sessions Judge set aside the order passed by the Judicial Magistrate, Tiruchengode, he has given a reason that though this case is fit for dismissal, in order to give one fair opportunity to contest the case, he has allowed it. The learned counsel for the petitioner would submit that the principal should have filed the complaint without awaiting for the recovery of the agent from

the illness. Further he has not submitted any documents to prove his illness. But on reading of the original affidavit filed by the respondent here is before the Magistrate shows that otherwise that principal himself was suffering from viral hepatitis and jaundice he could not execute the power of attorney. Therefore, there was a delay of 39 days in filing the complaint. This fact has been failed to consider by both the Courts below and the reason assigned by the Magistrate is not correct.

4.The statute itself permits the party to file the complaint even after 30 days if the Court was satisfied the reason stated in the affidavit it can condone the delay and take the complaint on file. On reading of the affidavit filed by the petitioner, the respondent herein and the petitioner therein has stated the reason for delay in filing the complaint and this Court satisfies the reason stated in the affidavit. Therefore, there is no reason to interfere with the order passed by the Sessions Judge. Therefore, this Court feels that there is no merit in the revision. Hence, the revision is liable to be dismissed.

5.The learned Magistrate is directed to take the complaint on file and proceed the case in accordance with law. Since the

complaint filed in the year 2016, the learned Magistrate is directed to complete the enquiry within six months from the date of receipt of a copy of this order.

6. With the above direction, the criminal revision is dismissed accordingly. Consequently, connected miscellaneous petitions are closed.

12.02.2019

Index: Yes/No
AT

Note: Issue order copy on 15.02.2019



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To

1.The Principal Sessions Judge,
Namakkal.

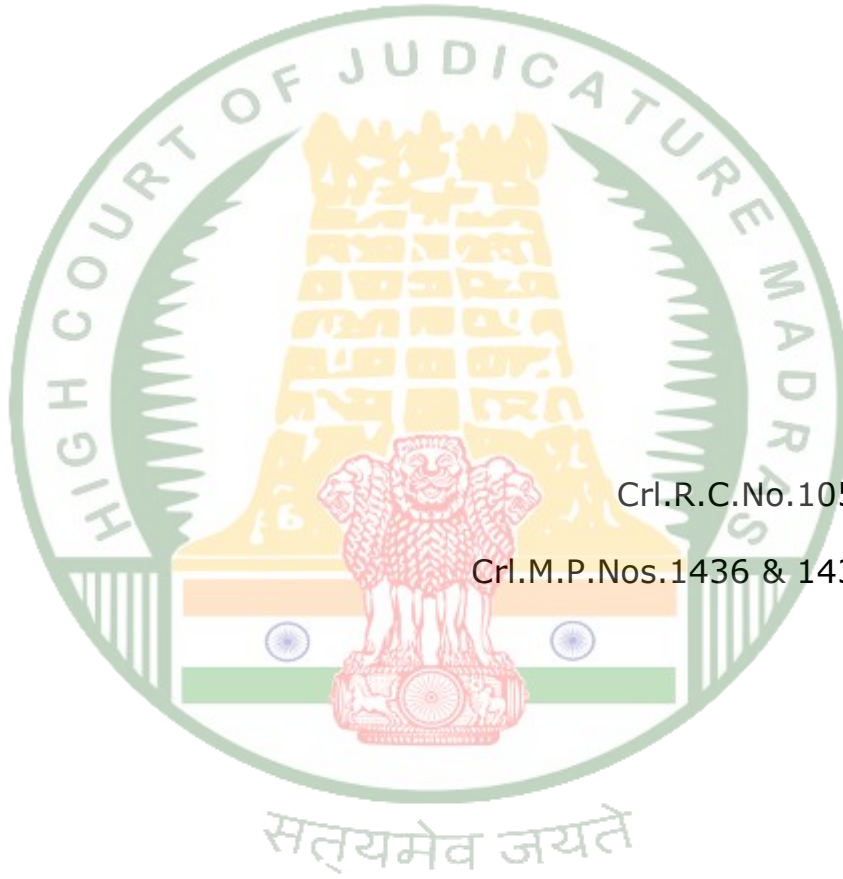
2.The Judicial Magistrate,
Tiruchengode.



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P.VELMURUGAN,J.

AT



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