

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.316 of 2019

and

Crl.M.P.No.3966 of 2019

G.Jothiraman

...Petitioner/Accused

-Vs-

P.Rameshkumar

...Respondent/Complainant

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records dated 18.01.2019 made in CMP. No.2738 of 2018 in C.A.SR.No.18858 of 2018 on the file of the learned Principal District and Sessions Judge, Coimbatore in C.C.No.518 of 2016 on the file of the learned Judicial Magistrate/FTC at Magisterial Level-I, Coimbatore and set aside the same.

For Petitioner : Mr.P.Saravana Sowmiyan

O R D E R

The petitioner is accused and respondent is complainant. The respondent filed a complaint before the Judicial Magistrate No.I, Coimbatore District in C.C.No.518 of 2016, under Section 138 of Negotiable Instrument Act. When the matter was taken up for hearing, both the parties were absent. Therefore the learned Magistrate dismissed the complaint for default. Against which the petitioner has filed a petition to condone the delay of 281 days in filing the appeal before the learned Principal District and Sessions Judge, Coimbatore in C.M.P.No.2738 of 2018. The learned Session Judge, considering the reasons, in order to give one more opportunity to the petitioner, allowed the petition at the cost of Rs.2,000/- payable by the petitioner to the respondent. Challenging the order passed by the learned Principal District and Sessions Judge, Coimbatore in C.M.P.No.2738 of 2018, the petitioner has filed a present revision before this Court.

2. The learned counsel for the petitioner would submit that the petitioner preferred a copy application on 06.11.2017 and he received the copy of the order on 03.02.2018 and the same was

handed over to the petitioner and the same was misplaced by the petitioner in his house. Hence the delay has occurred. The learned counsel prays this Court to set aside the order of the learned Principal District and Sessions Judge, Coimbatore.

3. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. Condoning the delay is discretionary power of the Court. While exercising the discretionary power, the Appellate Court allowed the petition with cost. The revision Court has to see whether the magistrate has exercised his discretionary power judicially or arbitrarily. On reading of the grounds filed by the petitioner, it is seen that the learned Principal District and Sessions Judge allowed the petition, on payment of cost of Rs.2,000/- payable by the petitioner to the respondent for compensate the inconvenience caused by him. This Court finds there is no perversity in passing the order by the Principal District and Sessions Judge, Coimbatore and finds no merit in the Revision Petition, therefore, the Revision is liable to be dismissed.

5. Accordingly, the criminal revision case is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1. The Principal District and Sessions Judge,
Coimbatore.

2. The Judicial Magistrate/FTC at Magisterial Level-I,
Coimbatore.

+1cc to Mr.P.Saravana Sowmiyan, Advocate sr.26474

CrI.R.C.No.316 of 2019
and
CrI.M.P.No.3966 of 2019

nmi (co)
nr 24/06/2019
nr 09/07/2019