

Crl.MP.Nos.8541 and 8542 of 2019in
Crl.RC.SR.No.16047 of 2019

A.D.JAGADISH CHANDIRA, J.,

1. The Criminal Miscellaneous Petition in Crl.M.P.No.8541/2019 has been filed, seeking to condone the delay of 711 days in filing the above Criminal Revision in Crl.RC.SR.No.16047 of 2019, against the order of conviction imposed by the judgment dated 24.07.2014, made in C.C.No.40/2013, by the learned Additional District Munsif Cum Judicial Magistrate, Ambur, as confirmed by the judgment dated 05.01.2017 in C.A.No.6/2015, passed by the learned III Additional Sessions Judge, Vellore. Crl.M.P.No.8542/2019 has been filed, seeking to condone the delay of 661 days in filing the above Criminal Revision in Crl.RC.SR.No.16047 of 2019, against the judgment of conviction imposed by the order dated 24.07.2014, made in C.C.No.39/2013, by the learned Additional District Munsif Cum Judicial Magistrate, Ambur, as confirmed by the judgment dated 05.01.2017 in C.A.No.5/2015, passed by the learned III Additional Sessions Judge, Vellore.
2. The petitioner is the accused in C.C.Nos.40/2013, filed by the respondent/complainant for the offence under Section 138 of the Negotiable Instruments Act. The Trial Court had found the petitioner guilty and convicted and sentenced him to undergo simple Imprisonment for a period of three months and directed the petitioner to pay the cheque amount within a period of two months, failing which, to undergo one month simple imprisonment. As against the judgment of conviction and sentence of the Trial Court, the petitioner had filed C.A.No.6/2015, before the learned III Additional Sessions Judge, Vellore and Tirupattur and the Appellate Court by judgment dated 05.01.2017, had dismissed the appeal and confirmed the conviction and

sentence passed by the Trial Court. The petitioner had applied for certified copy of the above order on 28.02.2017 and the copy was made ready on 03.04.2017 and the petitioner had received the same on 03.04.2017 and thereafter, there was some matrimonial dispute between the petitioner and his wife and on the complaint of his wife, the petitioner had been periodically enquired by the police, due to which, he was unable to move out of Ambur to make arrangements for filing the revision in time and thereby, there had been a delay of 711 days in filing the revision.

3. The respondents had filed a counter, stating that the complaint had been filed in respect of a cheque issued for a sum of Rs.1,17,000/- and that since the cheque was not honoured, after due to compliance of the procedure under Section 138 of the Negotiable Instrument Act, the respondents had filed C.C.No.39/2013, before the learned Judicial Magistrate, Ambur and the learned Magistrate, after trial found the petitioner/accused guilty and convicted him. Aggrieved against the order of conviction and sentence, the petitioner had filed C.A.No.5/2015, before the III Additional Sessions Judge, Vellore and Tirupattur and the Appellate Court had dismissed the appeal and the conviction and sentence were confirmed by the judgment dated 05.01.2017. Further, the averment that there was a matrimonial dispute between the petitioner and his wife was denied as false stating that no complaint was pending before any Forum. Further, it had been stated that no sufficient documents had been filed to prove that the petitioner was summoned to the Police Station daily and no documents have been furnished pertaining to the matrimonial dispute and thereby, it had been

prayed to dismiss the above petition.

4. Heard Mr.C.V.Kumar, learned counsel appearing for the petitioner and Mr.N.P.Kumar, learned counsel appearing for the respondent.
5. The learned counsel for the petitioner would submit that due to family dispute, his wife had given a complaint against him before the Ambur Police Station and he was frequently summoned by the police for enquiry and thereby, he was unable to move out of Ambur and as such, delay had occurred and would seek for condoning the delay.
6. Per Contra, the learned counsel for the respondent/complainant would submit that the petitioner had filed a false affidavit before this Court and that the respondent/complainant had verified with the Ambur Police Station and that no complaint had been given by the wife of the petitioner. Further, the Trial Court had issued the warrant against the petitioner/accused and that the warrant was pending on the file of the very same Ambur Police Station for execution and thereby, he would submit that the allegation of his wife giving a complaint and that the petitioner being dragged to the police station is a concocted story. Further, the petitioner has not shown any sufficient cause for condoning the delay of 711 days, which is almost two years. He would further submit that the petitioner is absconding and that he has also given false addresses.
7. I have gone through the affidavits filed in support of this criminal miscellaneous petition.
8. It is seen that non bailable warrant dated 13.08.2017, has been issued by the Trial Court after the confirmation by the Appellate Court by Judgment

A.D.JAGADISH CHANDIRA, J.,

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dated 05.01.2017 and the warrant is also pending before the very same Ambur Police Station, where the petitioner had set up a false story as if he was dragged to Ambur Police Station, on the complaint of his wife. On the verification by the respondent/complainant, it was found that no such complaint has been given by the wife before Ambur Police Station and that the reason stated was absolutely false and that he has not shown any sufficient cause.

9. In the opinion of this Court, the petitioner has not shown any sufficient cause whereas, he has sworn a false affidavit before this Court. This Court is not satisfied with the reasons stated in the affidavit filed in support of this miscellaneous petition, seeking condonation of delay, thereby, the petition for condonation of delay stands dismissed. Accordingly, connected Miscellaneous Petition is also dismissed and the main Crl.R.C.S.R.No.16047 of 2019 stands rejected.

Web:Yes/No
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31.10.2019

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