

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.619 of 2019

M/s.Venkatesh Trading Company,
Represented by its partners,
Mr.Danmal Chandak,
Old Door No.17, New Door No.37,
Anderson Street, First Floor,
Chennai-600 001. ... Petitioner/Complainant

Vs.

Mr.A.Ayyappan,
Power of Attorney Holder,
New Door No.4, Old Door No.59,
Anderson Street, First Floor,
Chennai-600 001. ...Respondent/Accused

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 16.04.2019 passed in
Crl.M.P.No.2865 of 2019 in C.C.No.1376 of 2016 on the file of
the District and Principal Sessions Court, Chennai.

For Petitioner : Mr.T.R.Ravi

ORDER

This criminal revision has been preferred seeking to set aside the order dated 16.04.2019 passed in Crl.M.P.No.2865 of 2019 in C.C.No.1376 of 2016 on the file of the District and Principal Sessions Court, Chennai.

2. The petitioner is the complainant in C.C.No.1376 of 2016 before the Metropolitan Magistrate (Fast Track Court-IV), George Town, Chennai-1, for an offence under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the NI Act"), in which, Sridhar (A1) and Ayyappan (A2) were shown as accused. The Trial Court, by judgment and order dated 27.06.2018, acquitted Ayyappan (A2) of the said charge, but, convicted Sridhar (A1) under Section 138, ibid and sentenced him to undergo simple

imprisonment for ten years and to pay a compensation of Rs.24,35,780/- to the complainant within one month from the date of receipt of copy of that order, in default to undergo simple imprisonment for two months.

3. Challenging the conviction and sentence, Sridhar (A1) has filed an appeal in C.A.No.428 of 2018 and the same is pending on the file of the XVII Additional District and Sessions Court, Chennai.

4. Challenging the acquittal of Ayyappan (A2), the petitioner filed an appeal with the delay of 195 days, for condoning which, he filed a petition in Crl.M.P.No.2865 of 2019.

5. The Trial Court, by judgment and order dated 05.04.2019, allowed the condonation of delay petition in Crl.M.P.No.2865 of 2019, on condition that the petitioner shall pay a sum of Rs.500/- to the District Legal Services Authority on or before 15.04.2019. Since the petitioner did not comply with the condition, the condonation of delay petition has been dismissed on 16.04.2019 and hence, this criminal revision petition.

6. Mr.T.R.Ravi, learned counsel for the petitioner submitted that his junior has failed to notice the award of costs imposed by the Appellate Court, which, resulted in the non-payment of the costs of Rs.500/- on or before 15.04.2019. He further submitted that the petitioner is now ready and willing to pay even additional costs.

7. In the opinion of this Court, the fault of the counsel on record should not cause prejudice to the party and therefore, this revision application is allowed and the order dated 16.04.2019 passed in Crl.M.P.No.2865 of 2019 in C.C.No.376 of 2016 on the file of the District and Principal Sessions Court, Chennai, is set aside. The petitioner shall pay a sum of Rs.1,000/- to the District Legal Services Authority, Chennai, on or before 15.07.2019 and submit the receipt to the Principal Sessions Judge, Chennai, with an affidavit. On such payment, the petition in Crl.M.P.No.2865 of 2019 shall stand allowed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

nsd

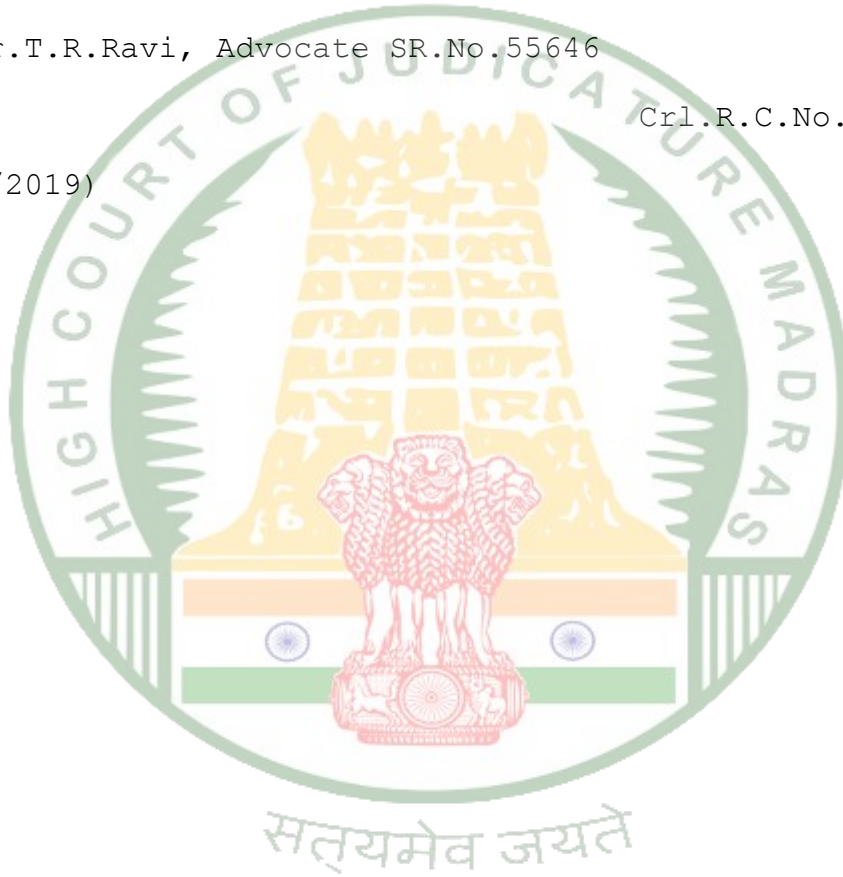
To

1. The Principal Sessions Judge,
Chennai.
2. The Metropolitan Magistrate,
(Fast Track Court-IV),
George Town, Chennai-01.
3. The District Legal Services Authority,
Chennai.

+1cc to Mr.T.R.Ravi, Advocate SR.No.55646

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