



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.19543 of 2019

D.Mahendran @ Yuva Mahendra

Petitioner

vs.

J.Anitha

Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in CMP:1 of 2019 in unnumbered C.A. of 2019 in C.C:113 of 2017, on the file of learned Principal Sessions Judge, Salem and set aside the order passed on 14.06.2019.

For Petitioner : Mr.V.Vijayakumar

O R D E R

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner to condone the delay in filing the appeal.

2. The petitioner is the complainant who filed the complaint against the respondent for an offence under Section 138 of the Negotiable Instruments Act in C.C.No.113 of 2017. The trial Court by judgment dated 13.03.2019 acquitted the respondent from all charges. Aggrieved by the same, the petitioner filed an appeal with a delay of 32 days. The Court below directed issuance of notice to the respondent in the condone delay petition. When the matter came up before the Court on 14.06.2019, the condone delay petition was dismissed by the Court below on the ground that there was no representation on the side of the petitioner and that the petitioner has not paid batta for issuance of notice to the respondent.

3. The learned counsel for the petitioner submitted that the petitioner had paid batta for issuance of notice to the respondent and the Court below failed to take note of the same. The learned counsel further submitted that the Court below had dismissed the petition merely on the ground that there was no representation on the side of the petitioner.



4. Taking into consideration the facts and circumstances of the case, this Court is inclined to interfere with the order passed by the Court below. The order passed by the Court below in CMP No.01 of 2019, dated 14.06.2019 is hereby set aside. The condone delay petition shall be restored file by the Court below. The Court below is directed to issue a fresh notice to the respondent and proceed further to deal with the condone delay petition in accordance with law.

5. This Criminal Original Petition is disposed of accordingly.

ssr

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Sessions Judge,  
Salem

2. The Public Prosecutor,  
High Court of Madras,  
Madras.

+lcc to Mr.V.Vijaya Kumar, Advocate, SR.No.62809

Cr1.O.P No.19543 of 2019

Kak(17/09/2019)