

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15771 of 2017

and

Crl.M.P.No.9825 of 2017

A.Pichaimani

... Petitioner

Vs.

Chandrababu

... Respondent

Prayer:

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crl.M.P.No.3027 of 2017 in Crl.M.P.No.99 of 2017 pending on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, set aside the order of the learned XVII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.3027 of 2017 dated 17.07.2017 as illegal.

For Petitioner : Mr.S.L.Prabakaran

For Respondent : No Appearance

O R D E R

This petition has been filed against the order passed by the Court below allowing the restoration petition filed by the respondent in restoring the condone delay petition filed by him to condone the delay of 8 days in filing complaint under Section 138 of the Negotiable Instrument Act.

2.The learned counsel for the petitioner submitted that the Court below ought not to have entertained the petition for restoration, as against the dismissal of the petition for default and the respondent can only maintain an appeal and the order passed by the Court below will amount to reviewing the earlier order.

3.Admittedly, the petition that was dismissed for default was only a condonation of delay petition. The Court below found that an opportunity must be given to the complainant to

prosecute his complaint and therefore it did not stand on formalities. This Court does not find any illegality in the order passed by the court below.

4.In the result, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitioner is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rst/jas

To

1. The XVII Metropolitan Magistrate,
Saidapet, Chennai
2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.15771 of 2017
and
CrI.M.P.No.9825 of 2017

SPD(CO)
CS/13/09/2019