

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.1170 of 2015
and M.P.No.1 of 2015

1. M.Malarvizhi,
W/o. Mohan,

2. M.Kathamuthu,
S/o.Marimuthu,

3. V.Balakrishnan,
S/o.Vellaiyan,

...Petitioners

Versus

Nandhi Dall Mills,
Rep. by its partner Mr.S.A.Kumar

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.128/2014 on the file of the Judicial Magistrate Fast Track (Magistrate Level), Trichengode and quash the same.

For Petitioners : Mr.Kavitha Ranjini
for S.Sithirai Anandam

For respondent : Mr.P.N.Vignesh

O R D E R

The petitioners, who are the accused in S.T.C.No.128 of 2014 for the offence under Section 138 r/w 141 of the Negotiable Instruments Act, 1881 r/w Section 420 of IPC on the file of the Judicial Magistrate, Fast Track Court, Thiruchengode, have filed this quash petition.

2. The learned counsel for the petitioners submit that the case before the Lower Court in S.T.C.No.128 of 2014 has been withdrawn by the respondent on 29.12.2017. Hence nothing survives for adjudication in this Original Petition.

3. The learned counsel appearing for the respondent/complainant submitted that during the pendency of this quash petition, there was an MOU between the petitioners and the respondent in S.T.C.No.128 of 2014 on 28.12.2017 and as

per the MOU the petitioners to discharge their liability, to make payments. Believing the representation the respondent filed the petition under Section 257 of Cr.P.C before the Trial Court based on the MOU and thereafter the case was withdrawn. Subsequently the petitioners who undertook to discharge their liability failed to make payment, hence the respondent filed appeal with the petition for condonation of 84 days. The District Judge, Salem after hearing the condone delay petition passed an detailed order going into the merits of the case and dismissed the condone delay petition. Aggrieved by the order of the District Judge the respondent herein filed Crl.R.C.Nos. 2 to 5 of 2019 before this Court. This Court by order dated 10.04.2019 set aside the order of the District Judge and remitted the case back to the District Judge to consider afresh the condone delay petition and also the grounds of appeal. The respondent/complainant submits that till today this petition is kept pending and yet to be taken up for consideration despite the respondent as well as the petitioner and other accused appear before District Court.

4. In view of the above factual position this Court referred the judgment of Hon'ble Apex Court on many occasions and reiterated the case under Section 138 of Negotiable Instruments Act are to be disposed within a stipulated period preferably within 6 months. Taking into consideration, the case is pending from the year 2014 and it is almost six years lapsed and the criminal appeal is to be kept pending for a considerable time before the District Court. Hence the District Court, Salem, is directed to dispose of the condone delay petition as well as the appeal filed by the petitioner within one month from the date of receipt of a copy of this order or after lifting of lock down and normal commencement of Court, whichever is earlier.

5. With the above observation the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

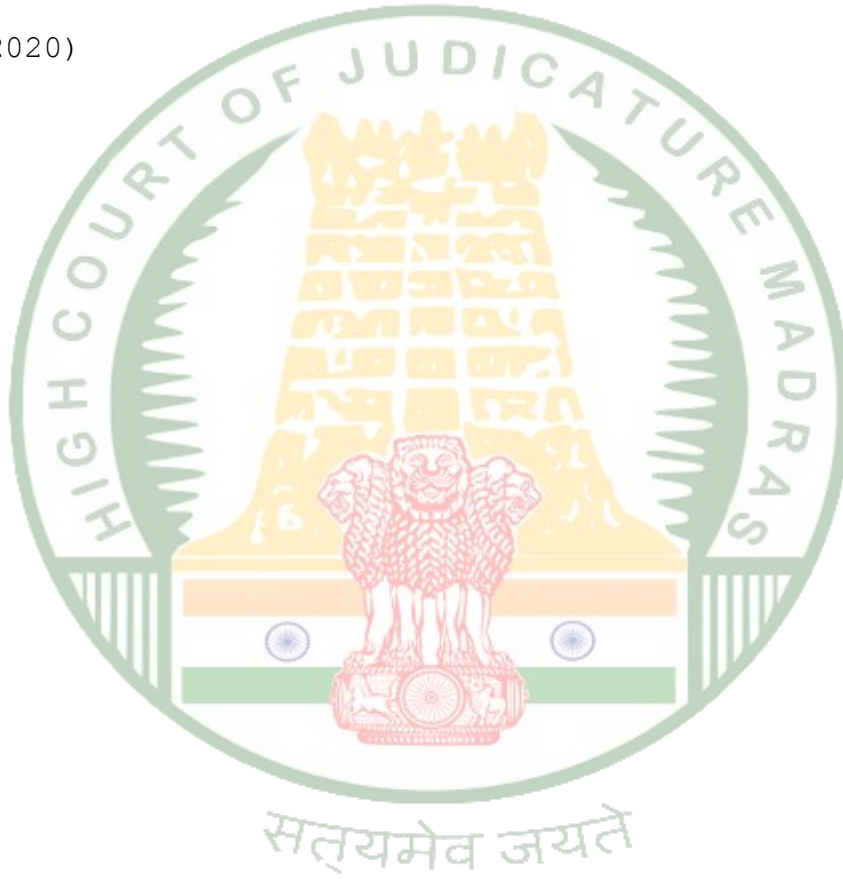
1. The District Court, Salem
2. The Judicial Magistrate,
Fast Track Court,
Trichengode.

3. The Public Prosecutor,
Madras High Court.

+1cc to Mr.S.Sithirai Anandan, Advocate in Sr.28100
+1cc to Mr.P.N.Vignesh, Advocate in Sr.27938

Cr1.O.P.No.1170 of 2015
and M.P.No.1 of 2015

AJS (CO)
RV(19/10/2020)



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