

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

C O R A M

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.No.1221 of 2013

M/s.Lakshmi Ram Safety Glass,
Rep. by its Power Agent,
Manager, R.Radhakrishnan,
No.22, SIDCO Industrial Estate,
Semmandalam, Cuddalore.

...Petitioner

Vs.

Meenakshi Sundaram

...Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to allow the Revision and set aside the order dated 08.06.2013 made in Crl.M.P.No.1660 of 2012 on the file of the Judicial Magistrate No.2, Cuddalore.

For Petitioner : Mr.P.Mathivanan

For Respondent : No Appearance

ORDER

This Criminal Revision Case is filed to set aside the order dated 08.06.2013 made in Crl.M.P.No.1660 of 2012 on the file of the learned Judicial Magistrate No.2, Cuddalore.

2.For the sake of convenience, the petitioner and the respondent will be referred to as the complainant and the accused.

3.It is the case of the complainant that the accused had purchased Glasses and had issued two cheques for Rs.1,18,366/- and Rs.1,42,213/-. The complainant presented the cheques on 24.06.2011 and the cheques were dishonoured on the ground, it exceeds arrangements on 25.06.2011. The complainant issued a statutory demand notice dated 09.07.2011, which is received by the accused on 12.07.2011. Since the accused did not comply with the demand, the complainant should have initiated a prosecution under Section 138 of the Negotiable Instruments Act, on or before 25.08.2011, whereas the complainant filed the complaint with a delay of 239 days. To condone this delay, he filed a petition in C.M.P.No.1660 of 2012 under Section 142(b) of the Negotiable Instruments Act. On notice, the accused entered

appearance and contested the petition. After hearing either side, the Trial Court, by order dated 08.06.2013 in CrI.M.P.No.1660 of 2012, dismissed the same. Aggrieved by which, the complainant came before this Court.

4.The learned counsel for the complainant submitted that the Trial Court ought not to have been hyper technical and should have accepted the reason propounded by the complainant and condoned the delay.

5.This Court gave its anxious consideration to the submission made by the learned counsel for the complainant.

6.In the affidavit filed by the complainant in support of the condone delay application, he has given the following reasons in paragraph 3:

3) I further submit that I have issued legal notice to the respondent on 9-7-2011 by calling upon him repay the cheque amount within 15 days from the date of receipt of the notice and the respondent received the notice on 12-7-2011 and neither paid any amount and sent any reply. I would have filed the complaint on or before 25-8-2011. Immediately, the respondent approached the complainant on 5-8-2011 and requested him not to file the complaint and he would repay the amount in due course. Since the respondent is long standing customer and promised to pay the cheque amount, the complainant believed his words had not chosen to file complaint in time. So, there is a delay of 239 days. Interest of justice require that the delay of 239 days should be condoned, as otherwise my company will be put into irreparable loss and hardship.

7.As rightly pointed out by the Trial Court, this explanation sounds incredible. The complainant could have filed the complaint and even thereafter, the matter could have been settled amicably. Though a pragmatic approach should be adopted while dealing with an application for condonation of delay, yet in this case, the reason given by the complainant that he delayed the prosecution, because the accused promised him that he would settle the amount, defies credibility.

8.In the result, this Criminal Revision Case is dismissed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

hvk

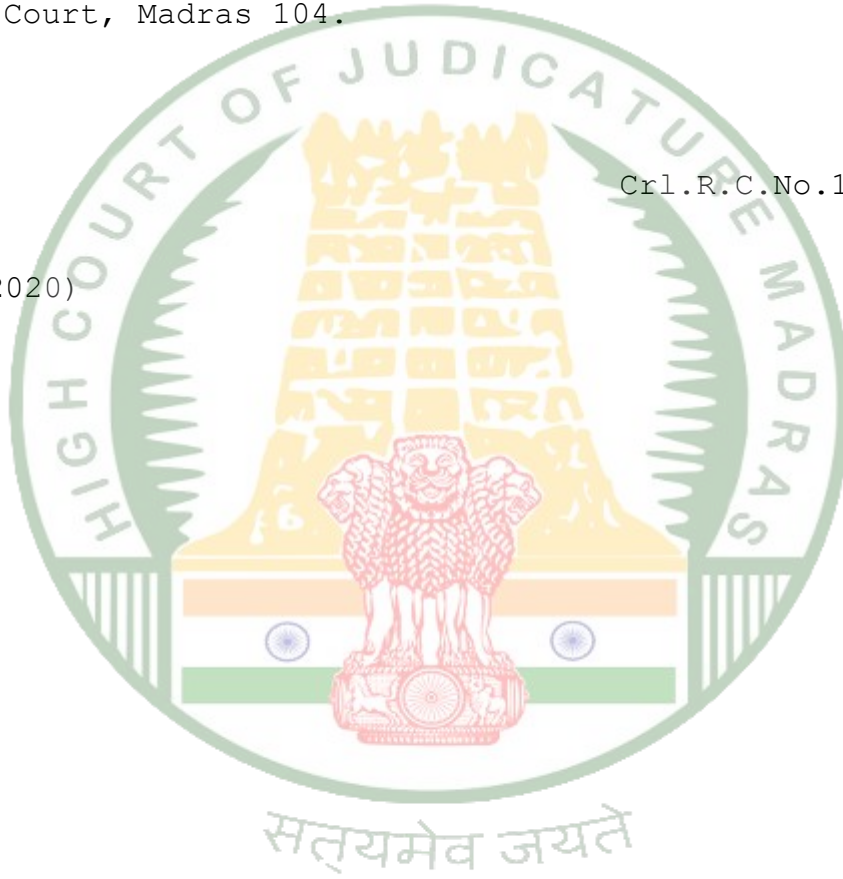
To

1.The Judicial Magistrate No.2
Cuddalore

Copy to
The Section officer
Criminal Section
High Court, Madras 104.

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PM(CO)
SP(04/03/2020)



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