

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.09.2020

PRONOUNCED ON : 07.09.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. No.711 of 2020

&

Crl.M.P. No.5091 of 2020

K. Chitra W/O Karuppannan

Petitioner/Accused no 4

vs.

State represented by
the Inspector of Police
Cr. No.43 of 2012
District Crime Branch
Namakkal
Namakkal District

Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the order dated 15.06.2020 made in C.M.P. No.1496 of 2019 in un-numbered C.R.P. on the file of the Principal District and Sessions Court, Namakkal and set aside the same.

For petitioner : Mr. N. Manokaran

For respondent : Mrs. P. Kritika Kamal
Govt. Advocate (Crl. Side)

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ORDER

This case was taken up through video conferencing.

2 The facts in brief are as under:

2.1 One T. Thilagavathy, a retired College Principal, lodged a complaint to the police alleging that Karuppannan (A.1), Madheswaran (A.2), Saththeeswaran (A.3) collected monies from her for depositing in the post office, but, eventually, swindled them.

Cr.No.43 of 2012 and after completing the investigation, filed a final report in C.C.No.111 of 2017 before the Court of Judicial Magistrate No.I, Namakkal, against Karuppannan (A.1), Madheswaran (A.2), Saththeeswaran (A.3) and Chitra (A.4) for offences under Sections 406,408,465,471 and 420 IPC read with Section 120-B IPC.

2.3 It is the case of the prosecution that Chitra (A.4) was a post office agent and she was also a party to the conspiracy along with her husband Karuppannan (A.1) and her relatives, Madheswaran (A.2) and Saththeeswaran (A.3).

2.4 While that being so, Chitra (A.4) filed Crl.M.P. No.7495 of 2017 in C.C. No.111 of 2017 in the Court of Judicial Magistrate No.I, Namakkal, under Section 239 Cr.P.C. for discharging her from the prosecution.

2.5 After hearing either side, the trial Court, by order dated 29.12.2017, allowed Crl.M.P. No.7495 of 2017 and discharged Chitra (A.4) from the prosecution.

2.6 Aggrieved by the said discharge, the Inspector of Police, District Crime Branch, Namakkal, preferred a revision petition under Section 397 Cr.P.C. in the Principal District and Sessions Court, Namakkal, with a delay of 526 days, to condone which, he filed an application in Crl.M.P. No.1496 of 2019 under Section 5 of the Limitation Act, which has been allowed on 15.06.2020, aggrieved by which, the instant criminal revision has been preferred by Chitra (A.4) under Section 397 Cr.P.C.

3 Heard Mr. N. Manokaran, learned counsel for the petitioner and Mrs. P. Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent State.

4 Mr. N. Manokaran submitted that the Inspector of Police, D.C.B., Namakkal, has not given any satisfactory reasons in the affidavit for condoning the delay of 526 days; he has merely stated that he joined as Inspector on 06.03.2019 and while going through the records, he found that the trial Court had discharged Chitra (A.4) and that his predecessor had not informed him of this.

5 Per contra, Mrs. Kritika Kamal submitted that there is manifest illegality in the order of discharge passed by the trial Court and that the failure of the then Inspector of Police to immediately agitate the matter in the higher forum within the period of limitation cannot be used as a ground to justify the illegality that was committed by the trial Court in discharging Chitra (A.4) by ignoring the overwhelming materials against her, especially the statement of one Subramaniam.

submitted that while considering the delay application, this Court should not go into the merits of the matter. In support of this submission, he placed reliance on the judgment of the Supreme Court in H. Dohil Constrictions Company Pvt. Ltd. vs. Nahar Exports Ltd. and another¹.

7 This Court gave its anxious consideration to the rival submissions.

8 It is true that this Court cannot go into the merits of the case while deciding an application for condonation of delay, but, as per the judgment of the Supreme Court in State of Jharkhand vs. Lalu Prasad Yada², sufficiency of cause has to be judged in a pragmatic manner so as to advance the cause of justice. In this case, the Inspector of Police, who was in charge of the prosecution, should have taken immediate steps to approach the higher forum challenging the discharge of Chitra (A.4) from the prosecution by the trial Court by ignoring the clinching materials against her, which he failed to do. When the present Inspector took charge of the case, he noticed the infirmity in the order of discharge passed by the trial Court and took steps to file the revision petition in the Court of Session, of course, with a delay. The Revisional Court also has condoned the delay and has taken the revision petition on file. This Court does not find any serious impropriety in the order of the Principal District and Sessions Court, Namakkal, in condoning the delay of 526 days, warranting interference in the further revision preferred by the aggrieved accused before this Court. It is always open to Chitra (A.4) to contest the revision petition filed by the police in the Sessions Court on merits for sustaining the order passed by the Magistrate discharging her from the prosecution.

In the result, this criminal revision is dismissed. Connected CrI.M.P. stands closed.

s/d

Assistant Registrar

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Sub-Assistant Registrar

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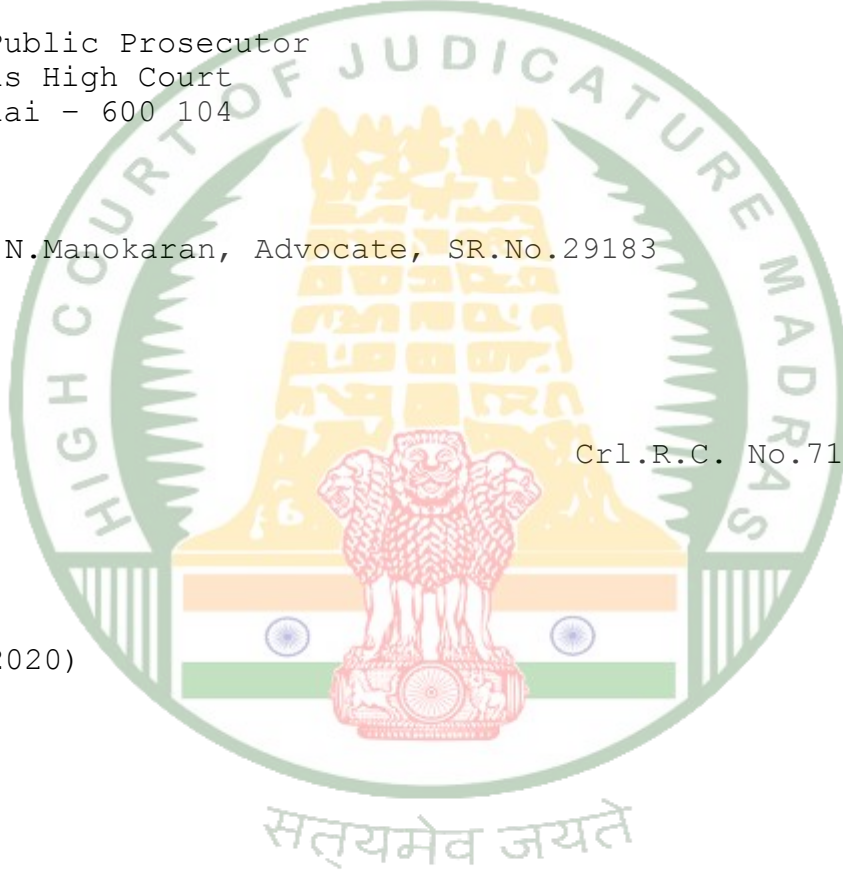
To

- 1 The Inspector of Police
District Crime Branch
Namakkal
Namakkal District
- 2 The Principal District and Sessions Judge
Namakkal
- 3 The Public Prosecutor
Madras High Court
Chennai - 600 104

+cc to Mr.N.Manokaran, Advocate, SR.No.29183

Cr1.R.C. No.711 of 2020

PP(CO)
RN(09/11/2020)



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