



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated: 06.02.2020
CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC(MD)No.527 of 2016
and
Crl.MP(MD)No.6448 of 2016

K.Sivaramalingapillai : Petitioner/Respondent
Vs.
M.Rajvel : Respondent/Complainant

Prayer: Criminal Appeal filed under Section 397 r/w 401 of the Criminal Procedure Code against the order made in Cr.M.P.No.2978 of 2015 on the file of the Judicial Magistrate No.IV, Madurai, dated 20.04.2016

For Petitioner : Mr.T.Antony Arul Raj
For Respondent : Mr.RMS.Sethuraman

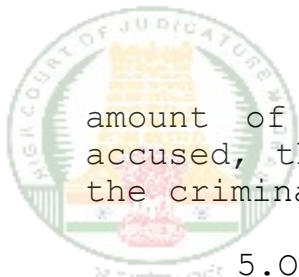
J U D G M E N T

This Criminal Revision is directed against the order of the Judicial Magistrate No.IV, Madurai, passed in Cr.MP No.2978 of 2015, dated 20.04.2016.

2. The respondent herein filed a complaint under section 200 of the Code of the Criminal Procedure for the commission of an offence under section 138 of the Negotiable Instruments Act. The said petition was filed with huge delay of 631 days. The learned Judicial Magistrate No.IV, Madurai, by order, dated 20.04.2014, made in Crl.MP No.2979 of 2015 allowed the petition and condoned the delay on payment of cost of Rs.2,000/-. Aggrieved by the same, the petitioner/accused is before this court.

3. Heard both sides and perused the materials available on record.

4. The contentions raised on the side of the petitioner/accused is that no proper explanation was given for the delay and the reasons assigned by the complainant are not sufficient for not making the complaint within time and there is a huge day of 631 days and it is the duty of the complainant to explain the reasons for every day and there was averment in the affidavit to the effect the respondent/complainant misplaced the instruments and there is no averment that when the complainant found the cheque, which was misplaced and no person will not quite, if he lend a huge



amount of Rs.6 Lakhs and in order to grab the money from the accused, the complainant falsely filed this petition and prays that the criminal revision has to be allowed.

5.On the other hand, the learned counsel appearing for the respondent/complainant submitted that due to his old age and sick, the respondent/complainant misplaced the cheque, hence, it is not possible for him to file the case under section 138 of the Negotiable Instruments Act as against the petitioner/accused within time and prays that the delay was properly explained and the trial court has rightly passed the order and prays for dismissal of the criminal revision.

6.The complainant stated that due to his illness, it is not possible for him to file the case within time. To prove his illness, the complainant produced the medical certificate. The respondent states that the medial records reveals that he was sick for six months only and for the remaining period, no sufficient reason was stated by the petitioner and prays that the petition may be dismissed. To prove that after six months for the remaining period, the respondent/complainant was hall and health, no contra evidence was let in on the side of the petitioner. Hence, the argument put forth on the side of the respondent stating that due to illness and old age, it is not possible for the petitioner to file the case within time is acceptable. Considering the above, the trial court has rightly allowed the delay condonation petition on costs. Hence, it is held that it is not necessary to interfere with the findings of the trial court.

7.In the result, this criminal revision fails and the same is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

The Judicial Magistrate No.IV,
Madurai.

+1 CC to Mr.K.BAALASUNDHARAM, Advocate (SR-5092[F] dated
06/02/2020)

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to Mr.T.ANTONY ARUL RAJ, Advocate (SR-5159[F] dated
07/02/2020)

Judgment made in
Crl.A.(MD)No.527 of 2016
06.02.2020

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