



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C (MD)No.681 of 2016

N.Prabakar

... Petitioner/Complainant

Vs

P.Sivakumar

... Respondent/Accused

Prayer: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the order dated 15.06.2016 made in Cr.M.P.No.2209-A of 2015 on the file of the Judicial Magistrate No.2, Kulithalai and set aside the same as illegal and allow the criminal revision case.

For Petitioner : Mr.B.Janath Ahmed

For Respondent : Mr.AN.Ramanathan

ORDER

Heard the learned counsel on either side.

2.The revision petitioner filed a complaint under Section 138 of the Negotiable Instruments Act. But there was delay in filing the same. Hence, Cr.M.P.No.2209 of 2015 was filed under Section 142 (b) of the Act for condonation. Notice was ordered and the accused filed his counter. The Court below, by the impugned order dated 15.06.2016, dismissed the petition. Questioning the same, this petition has been filed.

3.The learned counsel appearing for the respondent submitted that the impugned order does not call for any interference because the complainant has not given sufficient cause for explaining the delay.

4.I am of the view that since the delay occasioned in this case is hardly nine days, the Court below ought to have adopted an indulgent approach. The cheque amount is for Rs.15,00,000/-. By taking a technical approach, the complainant cannot be deprived of his right to prosecute his case. Interest of justice requires that the delay is condoned. In this view of the matter, the order impugned in this case is set aside. The revision case is allowed.



Crl.R.C.(MD)No.681 of 2016

The Court below shall number the complaint and consider the same in accordance with law.

Sd/-

Assistant Registrar(CO)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

rmi

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate No.2, Kulithalai.

+1 CC to Mr.B.JANATH AHMED, Advocate SR.No.26312

Crl.R.C(MD)No.681 of 2016

18.12.2020

SSS(CO)

TR(08.01.2021) 2P 3C