



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.02.2020

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Cr1.MP(MD)No.9602 of 2019

in

Cr1.A(MD)SR No.32324 of 2019

Mookaiah

: Petitioner/Appellant

Vs.

1.State through

The Deputy Superintendent of Police,
Thirupparankundram Range,
Thirunagar Police Station,
Madurai.
(In Crime No.85 of 2014)

2.Devarajan

3.Kalavathy

4.Gopi

: Respondents/Respondents

Prayer: Criminal Miscellaneous Petition filed under section 5 of the Limitation Act to condone the delay of 701 days in filing the appeal against the judgment of acquittal, dated 25.09.2017 passed by the III Additional District and Sessions Court (PCR), Madurai, in Spl.SC No.97 of 2015.

For Petitioner : Mr.Antony S Prabahar

For 1st Respondent : Mr.V.Neelakandan
Additional Public Prosecutor

For R2 to R4 : Mr.T.K.Gopalan

O R D E R

This Criminal Miscellaneous Petition is filed to condone the delay of 701 days in filing the criminal appeal against the judgment of acquittal, dated 25.09.2017 passed by the III Additional District and Sessions Court (PCR), Madurai, in Spl.SC No.97 of 2015.



2.The petitioner submits that he came to know that the respondents 2 to 4 were acquitted by the trial court in Spl.S.C No.97 of 2015 and before deposing in the above case, some of the common people known to him as well as the respondents 2 to 4 pacified him and advised him not to depose the entire occurrence which took place on 09.02.2014 and hence, he did not depose everything that happened on 09.02.2014 and if he had known earlier acquittal of the respondents 2 to 4 in the Spl.SC No.97 of 2015, he would have approached this court for appropriate remedy and the delay in filing the appeal is neither willful nor wanton and prays that the delay may be condoned.

3.On the other hand, on the side of the first respondent, it is submitted that the reasons stated by the petitioner to file the appeal are vague and flimsy and the Hon'ble Apex Court in several cases categorically held that the reasons for the delay of each and everyday should be clearly mentioned and in this case, the petitioner has not properly explained the cause for the enormous delay and prays that the petition may be dismissed.

4.On the side of the respondents 2 to 4, it is argued that they were falsely implicated in the case at the instigation of PW2 Sangaiah and PW3 Palanikumar and there was boundary dispute between them and PW2 and PW3 and further, the 2nd respondent gave complaint against PW2 and PW3 to their superior officials and it was admitted by PW2 and PW3 during their cross examination and the contention of the petitioner that he has not properly given evidence during the trial, which is a blatant lie and the trial court after thoroughly analysing both oral and documentary evidence came to the conclusion that they have not committed the offence and the petitioner is a total stranger to the respondents, who did not know anything about his caste, creed and religion and in order to escape from their liabilities involved in civil and criminal cases filed by the respondents, the petitioner filed the petition and the petitioner know at the earliest point of time about the acquittal of this respondents 2 to 4 and this petition is legally un-sustainable and prays that the petition may be dismissed.

5.In this case, the respondents 2 to 4 are the accused in Spl.SC No.95 of 2015 on the file of the III Additional District and Sessions Judge, Madurai. The petitioner is the de-facto complainant. The trial court acquitted the respondents 2 to 4 herein. The respondents 2 to 4 filed O.S.Nos.235 to 237 of 2018 against the petitioner and others for claiming compensation. Further, the 2nd respondent filed a private complaint for the offence under section 211 of the Criminal Procedure code as against the petitioner in STC No.5624 of 2019 before the Judicial Magistrate No.6, Madurai. In this case, the trial court passed the judgment in Spl.SC No.97 of 2015 on 25.09.2017. The respondents 2 to 4 filed the suit for compensation in the month of December 2018. The petitioner stated that he came to know the acquittal of the



respondents 2 to 4 only after he received the summons in OS No.235 of 2018. From the version of the petitioner, it reveals that he came to understand the acquittal of the respondents 2 to 4 in the month of December 2018. But the petitioner filed this condone delay petition only on 25.10.2019.

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6.The petitioner in his petition at para No.8 has stated that he applied for the certified copy on 18.10.2019 and obtained the copy of the judgment on 22.10.2019. No proper explanation was given by the petitioner for not applying the copy of the judgment immediately he came to know the acquittal of the respondents 2 to 4 in the month of December 2018. The Hon'ble Apex Court in several cases categorically held that the reasons for the delay for each and every day should be clearly stated in the petition. In this petition, no proper explanation was given by the petitioner for each and every day delay. The reasons stated in the petition are not at all acceptable. Hence, in the interest of justice, this petition is liable to be dismissed.

7.In the result, this Criminal Miscellaneous Petition is **dismissed**.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The III Additional District and Sessions Judge (PCR)
Madurai.

+1CC to Mr.Antony S.Prabahar, Advocate, S.R.No.7749.

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in

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