



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Eighth day of October Two Thousand Twenty

PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL MP (MD) No.11294 of 2019

in

CRL RC (MD) No.SR36200 of 2019

PRABHAKARAN

... PETITIONER/PETITIONER

Vs

1 K.CHANDRASEKARAN

2 JEYAKUMAR

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to condone the delay of 56 days in preferring the above criminal revision petition as against the order dated 01.06.2019 passed in C.M.P.No.7761 of 2018 in unnumbered C.C.No. 2019 regarding dismissed for default on the file of the FTC at Magistrate Level, Karur.

Prayer in CRL RC (MD) No.SR36200 of 2019:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to call for the records in the order dated 01.06.2019 passed in C.M.P.No.7761 of 2018 in Unnumbered C.C. Of 2019 regarding Dismissed for Default on the file of the Fast Track at Magistrate Level, Karur and to set aside the same.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.R.A.RAMACHANDHRAN, Advocate for the petitioner and of MR.SUBASH BABU, Advocate on behalf of the 1st Respondent and MR.R.SURESH KUMAR, Advocate for 2nd Respondent, the Court made the following order:-

This petition has been filed to condone the delay of 56 days in preferring the Criminal Revision.

2. On the side of the petitioner, it is stated that the petitioner has filed a complaint before the lower Court under Section 138 of the Negotiable Instruments Act and there is a delay of 162 days. The delay excuse petition was dismissed for non-prosecution on 01.06.2019. A copy application was filed by the



petitioner on 13.09.2019 and the copies were received on 31.10.2019 and there is a delay of 56 days in preferring the Criminal Revision and prayed the same to be condoned.

3. On the side of the respondents, it is stated that the petitioner has filed a condone delay petition and the delay is 186 days. Notice was ordered on that petition. Both the petitioner and his counsel were absent for more than five times. After giving reasonable opportunity to the petitioner, the learned Judge dismissed the delay excuse petition, on 01.06.2019. The petitioner has to file a revision within 90 days from 01.06.2020. Only after three months, the petitioner has filed a petition for copy application, even after the receipt of the copies, the petitioner has chosen to file a petition after one month. Only reason stated for the delay is that the petitioner is suffering from diabetic. Each day delay is not explained properly. Since the petitioner is not interested to prosecute the case, that petition was dismissed and prayed the petition to be dismissed.

4. The claim of the petitioner is that the respondents borrowed a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) assuring that the amount to be settled by way of supplying of wooden logs. But, he failed to supply wooden log as per the assurance. When the petitioner demanded for the balance amount, on instruction of the first respondent, the second respondent issued a cheque for a sum of Rs.28,19,000/- (Rupees Twenty Lakhs Nineteen Thousand only) drawn on Tamil Nadu Mercantile Bank Branch. When the cheque was presented, which was returned as insufficient fund. The petitioner file a complaint before the Magistrate. That un-numbered complaint in Cr.M.P.No.7761 of 2018, was dismissed for default on 01.06.2019. The delay excuse petition was dismissed for default.

5. The respondents claiming that the cheque was misused by his partner and the delay is wanton and the delay is not properly explained. The amount involved is Rs.28,19,000/- (Rupees Twenty Lakhs Nineteen Thousand only). An opportunity for the petitioner is to be given. The delay is 56 days. Though the reasons stated for delay is not satisfactory, the petition is allowed on condition of payment of Rs.1,000/- to the respective respondent's counsels (Totally Rs.2,000/- (Rupees Two Thousand only) on or before 29.10.2020, failing which, the petition shall stand automatically cancelled without any reference to this Court.

6. With the above direction, this petition is allowed.

sd/-

08/10/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE JUDGE,
FAST TRACK AT MAGISTRATE LEVEL,
KARUR.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.

ORDER IN
CRL MP(MD) No.11294 of 2019 in
CRL RC(MD)No.SR36200 of 2019
Date :08/10/2020

LS

TE/JC/SAR-III : 14/10/2020 : 3P/3C