

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 23.03.2021
CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.63 of 2021

Sakthivel ...Petitioner/Complainant/ Petitioner
Vs.

N.Jayasankar ... Respondent/ Accused/ Respondent

PRAYE: This Criminal Revision case is filed under Sections 397 read with Section 401 of Cr.P.C. against the order made in C.M.P.No.62 of 2019 in Unnumbered S.T.C.No. of 2019 dated 04.12.2020 on the file of the Judicial Magistrate, No.I, Bhavani praying to set aside the same by condoning the delay for the following among other.

For Petitioners: Mr.C.Kulanthaivel
For Respondent : M/s.Zeenath Begum

O R D E R

The petitioner is the complainant. He filed a complaint in C.M.P.No.62 of 2019 before the learned Judicial Magistrate I, Bhavani, along with a petition to condone the delay in filing the complaint. While condoning the delay, the learned Magistrate has imposed costs in a sum of Rs.500/- payable to the respondent on or before 26.11.2020. Since the conditional order has not been complied with by the petitioner, the C.M.P.No.62/2019 was dismissed under the impugned order. Challenging the said order, now the petitioner before this Court.

2. The learned counsel for the petitioner would submit that pursuant to the impugned order, petitioner immediately contacted the respondent to pay the said amount. However, the respondent had informed that he is in Salem and he would collect the amount on 26.11.2020. On such date, the petitioner was not able to contact the respondent. When the petitioner proposed to pay the amount on 27.11.2020 the respondent refused to receive stating that the time granted by this Court was expired. Hence, the non-compliance of the order of the Court below is not wanton. Thus, learned counsel, prays this Court to allow the revision.

3. The learned counsel for the respondent contended that the

condition imposed by the learned Magistrate has not been duly complied with. Therefore, the petition was automatically dismissed. The respondent was also ready and willing to receive whereas the petitioner has not paid the cost and complied the order. Hence, there is no merit in the revision.

4. The petitioner filed a complaint before the learned Magistrate under section 138 of the Negotiable Instrument Act. Since there was a delay in filing the complaint, he filed the petition to condone the delay in filing the complaint and the same was allowed with a condition directing the petitioner to pay a sum of Rs.500/- to the respondent. Admittedly, the condition was not complied with.

5. Considering the facts and circumstances of the case, this Court is of the view that for the mistake of counsel, the parties should not suffer. Therefore, this Court directs the petitioner to pay a sum of Rs.5,00/- to the respondent, who appear before the trial court, on or before 09.04.2021. If the respondent refuses to receive the amount, the petitioner is directed to deposit Rs.500/- to the credit of C.M.P.No.62 of 2019 on the file of learned Judicial Magistrate I, Bhavani, on or before 19.04.2021. On receipt of the same, the learned Magistrate is directed to take the complaint on file, if it is otherwise in order and proceed further in accordance with law.

6. The Criminal Revision Case is disposed of with the above direction.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

kmm

To
The Judicial Magistrate, No.I,
Bhavani.

2. Do thro the Chief Judicial Magistrate, Erode.

Crl.R.C.No.63 of 2021

Gj co
A.SK(29.03.2021)

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