

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Thursday, the Twenty Third day of September  
Two Thousand and Twenty One

PRESENT

The Hon`ble Mr. Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.6459 of 2019

IN

CRL RC SR.NO.21945 OF 2019

KITTUSAMY

..PETITIONER/ACCUSED  
(SOUGHT TO BE PREFERRED  
ON THE FILE OF THIS COURT)

Vs

P.KULANDHAIVEL

..RESPONDENT/COMPLAINANT  
(SOUGHT TO BE PREFERRED  
ON THE FILE OF THIS COURT)

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 115 days in filing the CRL RC SR.No.21945 of 2019 against the conviction imposed in the judgment dated 04.07.2018 made in CA No.184 of 2016 on the file of the learned First Additional District and Sessions Court, Coimbatore.

Crl.RC.SR.No.21945 of 2019: This Crl.Revision petition sought to be preferred on this file of this court against the conviction imposed in the Judgment dated 04.07.2018 made in C.A.NO.184 of 2016 on the file of the first Additional District and Sessions Court, Coimbatore and modifying the Judgment dated 29.11.2016 made in S.T.C. NO.5026 of 2013 on the file of the learned Judicial Magistrate No.2, Pollachi.

Order : This petition coming on for hearing on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof on the file of the High Court and upon hearing the arguments of Mr.D.R. Arunkumar, Advocate for the petitioner and Mr. M.N. Balakrishnan, Advocaty for the respondent, this court made the following order;

The petitioner is the accused and the respondent is the complainant. The respondent had filed a private complaint under Section 200 Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate No.II, Pollachi and the learned Judicial Magistrate taken cognizance of the complainant in S.T.C. No.5026 of 2013 and after enquiry, convicted the petitioner by order dated 29.11.2016 and sentenced him to undergo two years simple imprisonment with compensation of Rs.7,00,000/- payable to the respondent herein within three months and in default to undergo six months simple imprisonment.

2. Aggrieved by the order of conviction and sentence, the petitioner filed an appeal before the learned Principal District and Sessions Judge, Coimbatore. The learned Principal District and Sessions Judge, taken the appeal on file in C.A.No.184 of 2016 and made over the appeal to the I Additional District and Sessions Court, Coimbatore, for disposal. The learned I Additional District and Sessions Judge, after hearing the appeal, partly allowed the appeal by modified the sentence of imprisonment alone from 2 years to 6 months simple imprisonment and confirmed the compensation amount as ordered by the learned Magistrate.

3. Challenging the Judgment of the appellate Court, the petitioner has filed the above revision petition before this Court and this miscellaneous petition has been filed to condone the delay of 115 days in filing the revision.

4. The learned Counsel for the petitioner submitted that after the delivery of the Judgment by the First Additional District and Sessions Court, Coimbatore, since the petitioner was affected with Jaundice followed with multiple health complications, he could not approach the counsel and file the revision on time. Therefore, there is a delay of 115 days in filing the revision and that the delay may be condoned.

5. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent and perused the records on file.

6. The revision is only against the concurrent Judgments of both the Courts below for the offence under Section 138 of Negotiable Instruments Act. Therefore, this Court is inclined to condone the delay subject to the following condition;

The petitioner is directed to deposit 50% of the cheque amount i.e. Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand Only) in S.T.C No. 5026 of 2013 on the file of the learned Judicial Magistrate No.II, Pollachi, and the proof of deposit shall be produced before Registry in Crl.M.P.No.6459 of 2019 in Crl.RC.SR.No.21945 of 2019 on or before 20.10.2021, failing which, the order shall stand dismissed automatically without any further reference.

7. Registry is directed to list the matter on 21.10.2021 for reporting compliance.

-s/d-  
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

dsn

TO

- 1.The I Additional District and Sessions Court, Coimbatore.
- 2.The Principal District and Sessions Judge, Coimbatore.
- 3.The Judicial Magistrate NO.II, Pollachi.

Copy to: The Section Officer,  
Criminal Section,  
High Court, Madras.

DATED: 23.09.2021

Crl.MP. No. 6459 of 2019  
in  
Crl.RC.SR.No. 21945 of 2019

Giving direction etc, as stated  
within.

JPL(CO)

EU 27.09.2021