



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.601 of 2021
in
Crl.M.P.No.10011 of 2021

R.Padmavathy

...Petitioner/ Respondent

Vs.

M.Pushparaj

...Respondent/Petitioner

Prayer: Criminal Revision is filed under Section 397 r/w 401 of Cr.P.C is praying to call for the records relating to order dated 01.09.2021 passed in Crl.M.P.No.292 of 2020 on the file of the District Munsif Cum Judicial Magistrate Court, Vikravandi, and set aside the same.

For Petitioner : M/s.P.Mani

ORDER

The petitioner is accused and the respondent is complainant. The respondent/complainant had filed a complaint under section 138 of Negotiable Instruments Act before the learned Judicial Magistrate, Vikravandi, and there was a delay of 44 days in filing the complaint. The learned Magistrate condoned the delay with a condition to pay a sum of Rs.500/- to the Legal Services Authority. Challenging the said order, now the respondent therein has filed the present revision before this Court.

2. The learned counsel for the petitioner would submit that the petitioner already repaid the money and the respondent promised to return the disputed cheque. However he did not return the cheque and a false allegation has been made against the petitioner. Further, the respondent has not filed the complaint on time and he filed the complaint with a delay of 44 days for which, the respondent has stated that he suffered with Jaundice and was taking treatment and thereby, he could not meet



the Counsel to give instructions to file the complaint. Whereas, the respondent was hale and healthy and he did not suffer with any ailments and in order to escape from the debts, he filed the complaint belatedly and the reasons stated in the affidavit are not genuine and correct and the learned Magistrate failed to appreciate the same and allowed the petition which warrants interferences of this Court.

3. Heard the learned counsel for the petitioner and perused the materials on record.

4. It is seen that the respondent had filed a complaint before the Judicial Magistrate, Vikravandi and there was a delay of 44 days in filing the complaint. Therefore, he filed a petition in CMP No.292 of 2020 to condone the delay of 44 days in filing the complaint and he has stated the reasons that he had suffered with Jaundice due to which, he could not meet his Counsel and give instructions to file the complaint in time. Though, the learned counsel for the petitioner contended that the respondent did not suffer with Jaundice and he was hale and healthy, the petitioner has not produced any oral or documentary evidence to show that the respondent was hale and healthy and he was undertaking his day to day affairs. Therefore, the learned Magistrate considering the facts, condoned the delay with condition. Condoning delay is purely discretionary power of the Court below. Unless the Court finds any arbitrariness and malafidness in condoning the delay, this Court cannot not interfere with the order of the Magistrate.

5. In this case, this Court does not find perversity in the order passed by the learned Magistrate. Further, the Magistrate has already taken the complaint on file in C.C.No.677 of 2021. Under this circumstances, there is no merit in the revision and the revision is liable to be dismissed.

6. Accordingly, this Criminal Revision Case is dismissed at the admission stage itself. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ksa-2/dsn



To

The District Munsif cum Judicial Magistrate,
The District Munsif Cum Judicial Magistrate Court,
Vikravandi.

Copy to :

The Public Prosecutor, (Crl.Side)
High Court, Madras.

+lcc to M/s.P.Mani, Advocate Sr No.51520

Crl.Rc.No. 601 of 2021
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Crl.M.P.No.10011 of 2021

SRA (CO)
PR (18/10/2021)