



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order  
27.07.2021

Date of Pronouncing Order  
09.08.2021

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1234 of 2017

K. Marimuthu

.. Petitioner

Vs.

A. Jeganathan

.. Respondent

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, the order made in C.M.P.No.1931 of 2015 in unnumbered S.T.C.No....of 2015 dated 09.05.2016 on the file of the Judicial Magistrate, No.I, Sankari is liable to be set aside by condoning the delay.

For Petitioner : Mr.C.Kulanthaivel

For Respondent : Mr.V.Santharam

O R D E R

The matter is heard through "Video Conference".

2. The revision petitioner herein has filed a petition under Section 142(b) of Negotiable Instruments Act in CMP.No.1931/2015 before the learned Judicial Magistrate No.1, Sankari, to condone the delay of 208 days in filing the complaint and the same was dismissed and hence, the revision petition.

3. Heard, the learned counsel for the petitioner and the learned counsel for the respondent.

4. The revision petitioner herein is the defacto complainant before the learned Judicial Magistrate Court, Sankari. The said application to condone the delay of 208 days in filing the complaint under Section 138 of Negotiable Instruments Act, on the ground that the cheque issued by the respondent herein was returned as "insufficient funds" and the respondent herein issued a cheque dated 30.04.2014, was returned as insufficient of funds on 06.06.2014 and another cheque dated



30.04.2014 was returned on 06.06.2014 and another cheque dated 15.03.2014 was returned on 06.06.2014 and hence, the complainant had issued legal notice on 05.07.2014 to the accused and it was served on 08.07.2013.

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5. The complaint also have been filed on or before 21.08.2014. However, preferred the complaint with a delay of 208 days. The reason assigned therein was the petitioner herein was maintaining lorry business at Chennai, so he was unable to communicate with the counsel and to present the private complaint on time. The respondent herein filed a counter alleging that:

"the respondent entered into an oral agreement with the petitioner to supply to transport the Granite waste from the quarry on a rental basis. The petitioner supplied two Tippers bearing Regd.No.TN27V0226 and TN59D2318. This respondent used to pay the rent and obtained voucher for the same. This respondent produces some of the vouchers obtained from the petitioner for the perusal of this Court".

6. The learned Magistrate, after going through the documents placed before the Court, stated that there is no plausible reason for condoning the delay.

7. As stated supra, three post dated cheques dated 15.03.2014, viz., cheque Nos.823325, 823326 and 539962 was given to complainant and the same was dishonored. As per the procedural law, the complaint under Section 138 of Negotiable Instruments Act to be filed on or before 21.08.2014. Admittedly, petition was presented on 18.03.2015. Hence, the delay of 208 days.

8. The learned Magistrate is empowered to condone the delay under Section 142(b) of Negotiable Instruments Act, by taking cognizance of the complaint, after condoning the delay. However, there must be sufficient cause for not making the complaint, within the stipulated period. This provision has been made keeping in mind that the complainant namely drawee of the cheque and his interest has to be safeguarded. However, the same is subject to condition that he has to explain each and every day delay. It is to be kept in mind that filing of complaint under the provisions of Negotiable Instruments Act, involves the respondent/accused being exposed to a criminal charge and thus, the interpretation of the word "Sufficient Cause" occurring in Section 142(b) of Negotiable Instruments Act has to be strictly construed and not liberally as it is done in the civil cases.



9. On the facts and circumstances of the case, except pleading that he was doing lorry business, no reason was assigned or acceptable reason was offered for the delay of 208 days. There is no worthwhile explanation offered by the petitioner for the delayed presentation of the complaint nor any material placed before the Court below to show that the petitioner was prevented from filing the complaint within the time stipulated. Hence, in the absence of any sufficient cause much less any explanation for the said delay, the trial Court has rightly rejected the application.

10. After perusing the affidavit filed in support of the petition, I do not find any reason to condone the delay, as the petitioner has miserably failed to prove any statement, as to the delay, so as to constitute sufficient cause. Hence, the order of dismissal passed by the learned Magistrate does not suffer from any irregularity or illegality or warranting interference in this criminal revision.

11. In this view of the matter, the criminal revision case is dismissed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Judicial Magistrate, No.I,  
Sankari.

2.The Chief Judicial Magistrate,  
Salem District.

+1cc to Mr.C.Kulanthaivel, Advocate SR No.39162

+1cc to Mr.B.Sathish Sundar, Advocate SR No.39046

Cr1.R.C.No.1234 of 2017

NR (CO)  
PR (24/08/2021)