



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON  
09.09.2021

ORDERS PRONOUNCED ON  
22.09.2021

WEB COPY

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1167 of 2018  
and  
Crl.M.P.No.13566 of 2018

Gopal Pillai

.. Petitioner/Accused 2

.. Vs ..

Kumar

.. Respondent/Petitioner

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code, against the order dated 07.03.2018 made in C.M.P.No.2 of 2017 in Crl. Appeal No.nil of 2017, on the file of the learned Additional District and Sessions Judge (Fast Track Court), Arani.

For Petitioner : Mr.S.Makesh

For Respondent : Mr.B.Jawahar

ORDER

The matter is heard through "Video Conference".

The petitioner, who is the first accused in C.C.No.68 of 2008, has preferred this criminal revision case against the order dated 07.03.2018 passed by the learned Additional District and Sessions Judge (Fast Track Court), Arani, in C.M.P.No.2 of 2017 in Crl. Appeal No.nil of 2017.

2. The respondent herein, who is the de facto complainant, has given a complaint against the revision petitioner herein and also as against six persons alleging certain criminal act and on the basis of the said complaint, a case was registered by the Inspector of Police, Dusi Police Station, Tiruvannamalai, in Crime No.271 of 2008 and after completing the investigation, a final report was filed for the offences under Sections 147, 148, 323 and 325 of IPC. After trial, all the seven accused were acquitted.

3. Challenging the said order of acquittal dated 29.04.2011, the de facto complainant has preferred a Criminal Revision Case



No.594 of 2013 before this Court and in filing the said criminal revision case, there was a delay of 1757 days, in which, the accused were served and they appeared through counsel.

4. By an order dated 09.12.2015, the said Crl.R.C.No.594 of 2013 was dismissed by this Court, observing that in view of the amended Act, which came into force from 31.12.2009, only criminal appeal is maintainable and hence, the de facto complainant was directed to file an appeal before the appropriate Court and accordingly, dismissed the said criminal revision case. Thereafter, the de facto complainant has received the said dismissal order copy on 12.01.2016 and filed the criminal appeal before the learned Principal District and Sessions Judge, Thiruvannamalai, on 21.03.2016, along with a petition to condone the delay. The petition to condone the delay in filing the appeal was numbered as CMP.No.1802/2016 by the learned Principal District and Sessions Judge, Thiruvannamalai, which was transferred and made over to the learned Additional District and Sessions Judge (Fast Track Court) Arani and renumbered as CMP.No.2/2017, which is the petition to condone the delay of 1757 days. According to the de facto complainant/respondent herein, as against the order of acquittal, since he had wrongly preferred the criminal revision case before the High Court, this Court has given liberty to prosecute the case before the appropriate Court, by way of appeal and in that process, the delay had occurred and hence, he prayed for condoning the delay.

5. Per contra, the acquitted accused contended that the facts do not disclose "sufficient cause" to condone the delay. The learned counsel for the revision petitioner would contend that the learned Additional District and Sessions Judge, Arani, without considering the basic fact that the suit filed by the de facto complainant was dismissed and the suit was decreed in favour of the accused and further stated that writ petition was pending and in the absence of any "sufficient cause" the huge delay of 1757 days ought not to have been condoned.

6. After hearing the rival submissions, records reveal that the order of acquittal was passed in C.C.No.68 of 2008 on 29.04.2011 and as against order of acquittal, criminal revision case was filed with a delay of 1757 days and subsequently, the said delay was condoned by this Court and Crl.R.C.No.594 of 2013 was taken on file. Thereafter, on disposal, it was observed that in view of the amendment made in the criminal procedure code, as against the order of acquittal, the de facto complainant has to file a criminal appeal before the concerned Court and liberty was given to file necessary appeal before the concerned Court viz., Sessions Court for condoning the delay.



7. On a perusal of the order passed by this Court in Crl.R.C.No.594 of 2013, it is clear that if the de facto complainant preferring any appeal he may seek the aid of Sections 5 and 14 of the Limitation Act. Accordingly, the de facto complainant has filed the condoned delay petition in C.M.P.No.2 of 2017 stating that copy application for getting the order in criminal revision case was applied on 12.01.2016 and copy was made ready and the appeal was filed on 21.03.2016. By way of abundant caution, the period of delay also included in the pendency period of criminal revision case as stated supra assumes significance. Accordingly, the learned Additional Sessions Judge has condoned the delay and directed to number the criminal appeal.

8. Viewing from any angle, if the period of pendency of Crl.R.C.No.594 of 2013 is excluded, it will be very short period as compared to the present delay of 1757 days and he has to prefer the criminal appeal within a reasonable time and hence, the learned Additional Sessions Judge has rightly held that there is a "sufficient cause" for condoning the delay and allowed the petition for condoning the delay of 1757 days. On reading of Sections 5 and 14(5) of the Limitation Act, such an order passed by the learned Additional Sessions Judge does not suffer from any irregularity and illegality warranting interference by this Court.

9. In the result, this Criminal Revision Case is dismissed and the order passed by the learned Additional District and Sessions Judge (Fast Track Court), Arani, in C.M.P.No.2 of 2017 in Crl. Appeal No.nil of 2017, dated 07.03.2018, is confirmed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jrl  
To

1. The District Munsif, Cum Judicial Magistrate  
Thiruvannamalai.
2. The Additional District and Sessions Judge  
(Fast Track Court), Arani.

Crl.R.C.No.1167 of 2018

MG(CO)  
CT/13/10/2021