



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON
12.08.2021

ORDERS PRONOUNCED ON
23.08.2021

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1283 of 2018

K.Selvaraj .. Petitioner/Complainant

.. Vs ..

R.Ethiraj .. Respondent/Accused

PRAYER : Petition filed under Sections 397 and 401 of the Criminal Procedure Code, against the order dated 27.09.2018 made in C.M.P.No.4278 of 2018 in unnumbered C.C.No. of 2018, on the file of the learned Judicial Magistrate, Fast Track Court No.1, Coimbatore.

For Petitioner : Mr.N.Anbazhagan

For Respondent : No Appearance

ORDER

The matter is heard through "Video Conference".

This criminal revision case has been preferred by the petitioner/complainant against the order dated 27.09.2018 passed by the learned Judicial Magistrate, Fast Track Court No.1, Coimbatore, in C.M.P.No.4278 of 2018 in unnumbered C.C.No. of 2018.

2. The revision petitioner herein has filed a criminal complaint against the respondent herein/accused for the offence under Section 138 of the Negotiable Instruments Act in respect of a cheque bearing No.635081, drawn on Indian Bank, Mettupalayam Branch, dated 20.01.2017, given by the respondent for a sum of Rs.60 Lakhs, and the said cheque was returned for the reason 'Funds Insufficient' on 22.02.2017. The petitioner herein has issued a statutory notice on 28.02.2017, which was acknowledged by the respondent by way of reply notice dated 23.03.2017.



3. The respondent herein is the brother-in-law of the revision petitioner herein and since there was a negotiation for amicable settlement at the behest of relatives, the petitioner was called upon to show restraint from entering into any kind of legal battle. The petitioner herein did not file the complaint within the statutory period of 30 days as contemplated under Section 142(b) of the Negotiable Instruments Act and after failure of settlement talks, he has filed a petition in C.M.P.No.4278 of 2018 before the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore, seeking to condone the delay of 356 days in filing the complaint by stating the reason as 'settlement talks for the delay'.

4. On a perusal of records, it reveal that the cheque dated 20.01.2017 was returned on 22.02.2017; statutory notice was issued on 28.02.2017 and reply was given on 23.03.2017. The reason assigned for the delay of 356 days is that after issuance of the reply notice, there was a talks of compromise. Since the accused and the complainant are the close relatives viz., the accused is the brother-in-law of the complainant, the complainant did not want to have strained relationship. Admittedly, a counter has been filed opposing for the prayer.

5. After going through the counter as well as the pleadings, this Court is of the view that the reason assigned for condoning the delay of 356 days that in view of the settlement talks, he could not file the case in time cannot be accepted. Since the delay is extraordinary one, it is needless to say that each and every day delay has been explained to the satisfaction of the Court on the expiry of the statutory notice sent by the complainant.

6. No doubt true that provision has been made under Section 142(b) of the Negotiable Instruments Act. However, the same is subject to establishment of "sufficient cause to condone the delay". A mere plea that some settlement talks have been going on between the parties which was stoutly denied and hence, the trial Court has rightly come to the conclusion that it is only an afterthought.

7. It is to be noted that once the statutory notice for negotiation of the complaint under Section 138 of the Negotiable Instruments Act has been lapsed, the right has accrued to the accused that the prosecution will not be launched and the said right cannot be dislodged by mere assertion as it was done in this case.

8. Hence, in the absence of any sufficient cause for condoning the delay of 356 days, I do not find any reason to interfere with the order passed by the learned Judicial



Magistrate, Fast Track Court No.I, Coimbatore.

9. In this view of the matter, this Criminal Revision Case is dismissed.

WEB COPY

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Jr1

To

1.The Judicial Magistrate,
Fast Track Court No.1,
Coimbatore.

2.The Section Officer,
Crl. Sec. Records,
High Court, Madras.

+1cc to Mr.A.E.Ravichandran, Advocate Sr No.41968

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BR (CO)
PR (16/09/2021)