



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRIMINAL REVISION CASE NO.32 OF 2022

AND

CRL.M.P.NO.201 OF 2022

Mohankumar

... Petitioner/
Accused

..Vs..

Prakash

... Respondent/
Complainant

PRAYER:

Criminal Revision Case filed under Section 397 & 401 of the Code of Cr.P.C to call for the records in Crl.M.P.No.830 of 2020 dated 18.10.2021 on the file of the learned District Munsif-cum-Judicial Magistrate, Kodumudi and to set aside the same.

For Petitioner : Mr.K.T.S.Sivakumar

O R D E R

(The case has been heard through video conferencing)

This Criminal revision has been filed against the order passed by the learned District Munsif-cum-Judicial Magistrate, Kodumudi in Crl.M.P.No.830 of 2020 dated 18.10.2021, condoning the delay of 122 days in filing the complaint against the petitioner before the Trial Court.

2. The case of the petitioner is that the respondent had filed a private complaint against the accused for offence under Section 138 of N.I.Act in respect of returned cheque bearing No.625453, dated 04.07.2019 for Rs.2,97,000/-. When the cheque had been presented for collection with the respondent bank viz., State Bank of India, Gudimangalam branch, the same had been returned with the endorsement "Payment Stopped by Drawer" and the same was intimated to the respondent on 04.07.2019. Thereafter, the respondent/complainant had issued a statutory notice to the accused on 26.07.2019 and the same had



been received by the petitioner/accused on 30.07.2019. The complaint ought to have been filed by the respondent/complainant on or before 13.09.2019. Since the respondent/complainant was suffering from jaundice and taking natural treatment for his illness, he was unable to file the complaint on or before 13.09.2019 and thereby, there had been a delay of 122 days in filing the complaint. The respondent/complainant had filed a petition to condone the delay of 122 days in filing the complaint. The respondent/complainant had also filed supporting affidavit stating he was suffering from jaundice and taking natural treatment. The Trial Court by an order dated 18.10.2021 in CrI.M.P.No.830 of 2020, had condoned the delay and against which, the present revision has been filed.

3.Learned counsel for the petitioner would submit that the respondent/complainant had filed affidavit containing contradictory statements. He would further submit that the averments in the affidavit are bald and vague. The learned Magistrate erred in condoning the delay based on the bald and vague statement.

4. Heard the learned counsel for the petitioner and perused the materials available on record including the supporting affidavit filed by the respondent/complainant seeking to condone the delay.

5.The respondent/complainant had stated that the complaint ought to have been filed on or before 13.09.2019. Since he was affected by jaundice and was taking natural treatment from 10.09.2019, he was unable to go to the office of his Advocate before 13.09.2019 and that he had recovered from his illness on 10.01.2020. Thereafter, he had filed affidavit before the Court stating that there had been a delay of 119 days in presenting the complaint before the Court. This Court does not find contradictions in the statement. The complainant had stated reason for not presenting the complaint within the time. Further the delay is also not very huge. There is no infirmity or error in the order passed by the learned Judge condoning the delay. The revision lacks merits. Accordingly, the Criminal Revision Case stands dismissed. Consequently, connected Criminal Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vri/shk



To

1. District Munsif-cum-Judicial Magistrate,
Kodumudi.

2. Do-thro The Chief Judicial Magistrate,
Erode.

Copy To

The Section Officer,
Criminal Section, High Court,
Madras.

+lcc to Mr.K.T.S.Sivakumar, Advocate, S.R.No.2553

Criminal Revision Case No.32 of 2022
and
Crl.M.P.No.201 of 2022

MT (CO)
PM/31/01/2022