



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2022

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.1578 of 2020
in
Crl.RC.SR.No.4911 of 2020

1. M/s.Success Fire Services Pvt Ltd.,
Represented by its Chief Executive,
K.AL.Swaminathan, No.22, A8, R.K.Flats,
R.A.Puram, 3rd Street, Adambakkam,
Chennai 600 108
 2. K.AL.Swaminathan
- ...Petitioners/Petitioners
- Vs.
- M/s Saravana Enterprises,
Represented by one of its Partners
And General Power of Attorney,
R.Krishnamoorthy, New No.59, Old No.29,
Guruvappa Chetty Street, Chindradipet,
Chennai 600 002
- ...Respondent/Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 482 of Cr.P.C to condone the delay of 1879 days in preferring the criminal revision petition against the order dated 10.09.2014 passed in Crl.Appeal No.148 of 2012 by the learned XIX Additional City Civil Judge, Chennai.

PRAYER: CRL.RC.SR.No.4911 OF 2020.

It is therefore prayed that this Hon'ble Court be pleased to cell for the records pertaining to the Judgment dated 31/07/2012 in CC.No.16212 of 2008 on the file of the Metropolitan Magistrate, Cum Fast Track Judge-II, Egmore, Chennai as confirmed by the order dated 10.09.2014 passed in Crl.A.No.148 of 2012 by the XIX Additional City Civil Judge, Chennai and set aside the same.

For Petitioners	:	Mr.AR.M.Arunachalam
For Respondent	:	Mr.V.N.Amudhan

O R D E R

This petition has been filed to condone the delay of 1879 days in preferring the criminal revision against the order dated 10.09.2014 passed in Crl.A.No.148 of 2012 by the learned XIX Additional City Civil Judge, Chennai.



2. The averments found in the affidavit filed in support of this petition is that the petitioner is an accused in CC.No.16212 of 2008 on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai. By order dated 31.07.2012, the learned trial court convicted and sentenced the petitioner under Section 138 of NI Act to undergo three months rigorous imprisonment and to pay compensation of Rs.4,00,000/- within one month, in default to undergo one month simple imprisonment. Challenging the said order of conviction, the petitioner herein preferred appeal before the learned XIX Additional City Civil Judge, Chennai in Crl.A.No.148 of 2012. In the said appeal, the petitioner filed miscellaneous petition in Crl.MP.No.8397 of 2012 seeking to suspend the sentence on conviction imposed upon him. The learned XIX Additional City Civil Judge, Chennai by order dated 22.08.2012, suspended the sentence imposed on the petitioner on condition that the petitioner deposit a sum of Rs.30,000/- within one month therefrom.

3. Later, the conditional order passed by the learned XIX Additional City Civil Judge, Chennai in Crl.MP.No.8397 of 2012 could not be complied by the petitioner for the reasons that the petitioner suffered from the accident in the year 2009. In the meanwhile by order dated 10.09.2014, the learned presiding officer of the XIX Additional City Civil Court, Chennai dismissed the appeal for the reason that the appellants are not present as well as for the reason that conditional order passed has not been complied with. Now challenging the same, the petitioner intended to file a criminal revision and by which since the period of limitation is already exhausted, the present petition has been filed for condoning the delay.

4. The averments found in the counter filed by the respondent is that the reasons stated in the affidavit for condoning the delay is not having any truth. This petition is filed with untenable reason. The petitioner was involved in the accident in the year 2009. When the appeal itself was in the year 2012, the petitioner was able to attend the court till obtaining order of suspension of sentence. Thereafter he wantonly failed to appear and now states because of the said accident, he could not appear before the court.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

6. The first and foremost contention raised by the learned counsel for the petitioner is that due to the accident happened in the year 2009, the petitioner becomes vegetable and he is not in a position to move from one place to another place. It is his further submission that after the accident a plate was fixed in



his body and due to the same, he was not in a position to approach his counsel and due to the same, delay has occurred.

7. Now on considering the said submissions with the relevant records, the petitioner herein is intended to file a revision against the order passed in the year 2014. Furthermore, he presented the appeal before the XIX Additional City Civil Court, Chennai in the year 2012. Therefore in the said circumstances, being the reason the alleged accident had happened in the year of 2009, the reasons stated by the petitioner for condoning the delay cannot be accepted. If the averments found in the affidavit as he sustained multiple injury, it would not be possible to file an appeal in the year 2012. Further the period of 1879 days is not an ordinary delay. Furthermore, after pronouncing judgment in the year 2014, the petitioner has not taken any steps to settle the issue by paying cheque amount since the alleged offence committed by the petitioner is punishable under Section 138 of NI Act. So the reasons stated by the petitioner for condoning the delay is not an acceptable one.

8. Accordingly, this criminal miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The learned XIX Additional City Civil Judge,
Chennai.
2. The Metropolitan Magistrate,
Fast Track Court-II,
Egmore, Chennai.

+1cc to Mr.AR.M.Arunachalam, Advocate, S.R.No.14049

+1cc to V.N.Amudhan, Advocate, S.R.No.24366

[09/06/2022]

CrI.M.P.No.1578 of 2020

in

CrI.RC.SR.No.4911 of 2020

SRA(CO)

CT 22/03/2022