

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM:

THE HON`BLE MR. JUSTICE R.PONGIAPPAN

Crl.MP.Nos.2048 & 2062 of 2020  
and  
Crl.A.SR.Nos.5229 & 5212 of 2020

STATE REPRESENTED BY  
THE DEPUTY DIRECTOR-II, INDUSTRIAL SAFETY  
AND HEALTH, NO.14, GANGA NAGAR, TIRUPPUR,  
TIRUPPUR DISTRICT.

...PETITIONER IN BOTH CRL.MPs  
Vs

SHANTHI MUTHUKUMARASAMY  
W/O. T.V.SUBRAMANI, MANAGER OF TIRUPPUR  
SRI SENTHIL COTTON MILLS LTD., SF.NO.302,  
KONATHOTTAM, ANDIPALAYAM, MANGALAM ROAD,  
TIRUPPUR.

...RESPONDENT IN CRL.MP.NO.2048 OF 2020

A.P.VELUSAMY,  
S/O.PALANISAMY,  
OCCUPIER OF TIRUPPUR  
SRI SENTHIL COTTON MILLS LTD., SF.NO.302,  
KONATHOTTAM, ANDIPALAYAM, MANGALAM ROAD,  
TIRUPPUR.

...RESPONDENT IN CRL.MP.NO.2062 OF 2020

Prayer in Crl.MPs:Criminal Miscellaneous Petitions have been filed under Section 5 of the Limitation Act to condone the delay of 1234 days in filing the appeal against the acquittal judgment passed in C.C.Nos.40 & 36 of 2013, dated 17.03.2016 on the file of the Chief Judicial Magistrate Court, Tiruppur.

Prayer in Crl.A.SRs: Criminal Appeals have been filed under Section 378 (i) Cr.P.C. to set aside the judgment of acquittal of the Respondent / Accused in C.C.Nos.40 & 36 of 2013, dated 17.03.2016 by the Chief Judicial Magistrate Court, Tiruppur and convict the Respondent / Accused for the charges framed against him.

For Petitioner in : Mr.Leonard Arul Joseph Selvan  
all the cases Government Advocate(Crl.side)

For Respondent in : Mr.M.L.Joseph  
all the cases for M/s.Chennai Law Associates

## ORDER

The present criminal miscellaneous petitions have been filed praying to condone the delay of 1234 days in filing the appeals against the judgment of acquittal passed in C.C.Nos.40 & 36 of 2013 dated 17.03.2016 on the file of the Chief Judicial Magistrate Court, Tiruppur.

2.The case of the petitioner is that the petitioner is working as a Deputy Director of Industrial Safety and Health - II, Tiruppur. He filed a final report as against the respondent alleging that the respondent is liable to be convicted under Sections (i). 32(c) Rule 61A and Section 41 Rule 61E, (ii).Section 88(1) Rule 96 (1) (2), in respect of C.C. No. 40 of 2013 and (i).Section 7A (1) (2), 31(c) Rule 61A and Section 41 Rule 61E, (ii) Section 6(1)(a)(aa) (b) (c) Rule 3(5)(a) and (iii).31(2) Rule 56 (7)(9)(b) and 56(b) of Factories Act in respect of C.C. No.36 of 2013. After elaborate trial, by Judgment dated 17.03.2016, the learned Chief Judicial Magistrate, Tiruppur, found the accused not guilty of the said offences and accordingly, acquitted him of all the charges.

3.Challenging the same, the petitioner being the complainant intended to prefer appeals before this Court. In this regard, there was a delay of 1234 days in filing the appeals and therefore, the petitioner is before this Court with these applications.

4.The learned Government Advocate (Crl.side) appearing for the appellant/complainant would contend that after pronouncing judgment dated 17.03.2016, the copy of the judgment and the statement of witnesses were obtained by the petitioner on 30.03.2016 and later, he submitted an application before the Additional Public Prosecutor attached to Chief Judicial Magistrate Court, Tiruppur, for giving legal opinion for preferring appeals against the judgment of acquittal dated 17.03.2016 rendered in C.C. Nos. 40 & 36 of 2013. Later the learned Additional Public Prosecutor, attached to Chief Judicial Magistrate, Tiruppur, vide letter dated 12.04.2016 gave opinion that it is a fit case for preferring an appeal. After the receipt of the said letter, the petitioner received a permission letter for getting legal opinion from the State Public Prosecutor, High Court, Madras, on 27.05.2016 in letter No.G1/10878/2016. Thereafter, due to the administrative reasons, a delay of 1234 days has occurred in preferring the appeals and the said delay is not willful.

5.Now, on considering the said submission with the relevant records, admittedly, in the year 2016 itself, the impugned judgement was delivered by the Chief

Judicial Magistrate, Tiruppur. Later, on 27.05.2016 itself, the petitioner got permission from the Director of Industrial Safety and Health, Chennai for filing the appeals. Thereafter, without any reasons, the appeals have not been preferred till 2020. Since Covid pandemic was from the year February, 2020, it cannot be said that the petitioner had not preferred any appeal due to Covid - 19. Though there was administrative delay in preferring the appeals, considering the period of delay, it cannot be said that the delay is due to administrative reasons. The whole affidavit submitted by the petitioner would disclose without any sufficient cause, the file was kept with the petitioner from the year 2017 to 2020. For the said period, there is no explanation offered from the side of the petitioner. More than that, it was stated by the petitioner himself that the respondent's factory was under liquidation and had been closed. Though the said reason is not a ground for condoning the delay, for the reason that these applications have been filed without showing any sufficient cause, this Court is not inclined to allow these petitions. Accordingly, these petitions are dismissed. Consequently connect Crl.A.SRs are rejected.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sms  
To

The Chief Judicial Magistrate,  
Tiruppur.

Copy to  
The Section Officer,  
Criminal Section,  
High Court, Madras - 104.

DATED : 24.03.2022

ORDER

Crl.MP.Nos.2048 & 2062 of 2020  
and  
Crl.A.SR.Nos.5229 & 5212 of 2020

Petitions dismissed etc as  
stated within.

MG[co]  
NSK 25/04/2022