



**CrI.M.P.No.2703 of 2020**  
**in CrI.A.SR.No.8392 of 2020**

**R.PONGIAPPAN, J.**

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The present Criminal Miscellaneous Petition has been filed, praying to condone the delay of 341 days in preferring the Criminal Appeal, as against the judgment passed in C.A.No.174 of 2018 dated 07.01.2019 on the file of the learned XVIII Additional Sessions Judge, Chennai.

2. The petitioner herein is the complainant in C.C.No.1349 of 2007 on the file of the learned Metropolitan Magistrate, FTC-I, Chennai. The said case has been filed as against the respondent / accused alleging that the respondent has committed an offence under Section 138 of N.I. Act. The learned Metropolitan Magistrate, after concluding the trial found the respondent / accused guilty for the offence under Section 138 of N.I. Act, convicted and sentenced to undergo Simple Imprisonment for one year and to pay compensation of Rs.23,25,730/-.

3. Challenging the above conviction and sentence, the respondent / accused has preferred an appeal in C.A.No.174 of 2018 and the same has been allowed by the learned XVIII Additional Sessions Judge, Chennai, by setting aside the conviction and sentence. Now, as against the



judgment passed by the first Appellate Court, the petitioner has preferred an appeal, for which, a delay of 341 days has occurred.

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4. The learned counsel appearing for the petitioner would submit that the Assistant Manager, who was working in the complainant's company has left the job without giving instructions as to the result of the petition mentioned case. Further, he has not handover the case records and therefore, the above referred delay has occurred.

5. In this regard, after receipt of the notice sent by this Court, the respondent has appeared before this Court through an advocate. Though the learned counsel for the respondent seeks time for filing counter affidavit, later for the reason best known to him, he has not filed any counter affidavit. In fact, for the past 2 hearings, there was no representation on behalf of the respondent. Therefore, the attitude of the respondent will go to show that he is not having any objection in condoning the delay.

6. Hence, in view of the above said facts, this petition is allowed and the delay is condoned.



**19.04.2022**

**Note:** Registry is directed to number the appeal, if it is otherwise in order.

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