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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No.341 of 2022
and
Crl.M.P.No.6126 of 2022

M.Jayasankar

... Petitioner/Accused

versus

Selvakumar

... Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 and 401 of the Code of Criminal Procedure, praying to call for the records and to set aside the order dated 05.03.2022 passed in Crl.M.P.No.2157 of 2021 in unnumbered Criminal Appeal of 2021 on the file of the learned Principal District and Sessions Judge, Cuddalore, by dismissing the petition to condone the delay of 1897 days in filing the appeal against the judgment dated 28.10.2014 passed by the learned District Munsif-cum-Judicial Magistrate, Neyveli in S.T.C.No.121 of 2009.

For Petitioner : Mr.F.Wellington

For Respondent : Mr.R.Suryaprakash

O R D E R

Heard both sides.

2.The present Criminal Revision Petition has been filed, praying to set aside the order dated 05.03.2022 passed in Crl.M.P.No.2157 of 2021 in unnumbered Criminal Appeal of 2021 on the file of the learned Principal District and Sessions Judge, Cuddalore, by dismissing the petition to condone the delay of 1897 days in filing the appeal against the judgment dated 28.10.2014 passed by the learned District Munsif-cum-Judicial Magistrate, Neyveli in S.T.C.No.121 of 2009.

3.The case of the petitioner is that, he is an accused in S.T.C.No.121 of 2009 on the file of the learned District Munsif-cum-Judicial Magistrate, Neyveli. In earlier, the respondent in this Revision Petition has filed a private complaint as against



the petitioner before the learned District Munsif-cum-Judicial Magistrate, Neyveli, alleging that the petitioner has committed an offence under Section 138 of NI Act. Later, after elaborate enquiry, the learned District Munsif-cum-Judicial Magistrate, Neyveli, by judgment dated 28.10.2014 found the revision petitioner guilty of the offence punishable under Section 138 of NI Act, convicted and sentenced to undergo Simple Imprisonment for one year and to pay compensation of Rs.2,25,000/- to the complainant. Challenging the same, the petitioner did not prefer any appeal within a period of limitation.

4.On the other hand, the petitioner has filed a petition before the learned Principal District and Sessions Judge, Cuddalore, in Crl.M.P.No.2157 of 2021 wherein he prayed to condone the delay of 1897 days in filing the appeal as against the judgment dated 28.10.2014 made in S.T.C.No.121 of 2009.

5.The learned Principal District and Sessions Judge, Cuddalore, after enquiry, by order dated 05.03.2022, dismissed the said petition. Aggrieved over the said findings, the petitioner is before this Court with the present Criminal Revision Petition.

6.Today, when this Criminal Revision Petition is taken up for hearing, Mr.F.Wellington, learned counsel appearing for the petitioner and Mr.R.Suryaprakash, learned counsel appearing for the respondent are appeared before this Court and made submission as the dispute having by the petitioner with the respondent now settled and therefore, it would necessary to allow this Revision Petition, by condoning the delay as required by the petitioner. In order to show their bona fide, they filed a petition in Crl.M.P.No.6126 of 2022 under Section 147 of NI Act, praying to compound the offence, since the offence committed by the petitioner is compoundable one under NI Act.

7.Therefore, the said submissions made by the learned counsel appearing on either side and the relevant records produced before this Court would go to show that both the petitioner and the respondent now wanted to settle the issue by recording the compromise entered into between them. However, being the reason that the present Revision Petition has been filed, challenging the impugned order dated 05.03.2022, which is filed for condoning the delay in filing the appeal, this Court is not in a position to record the compromise entered into between the petitioner and the respondent. Therefore, after allowing this Revision, it would appropriate to direct the learned Principal District and Sessions Judge, Cuddalore, to number the appeal preferred by the petitioner and to record the compromise, after receipt of the application filed for compounding the offence.



8. Accordingly, this Court is inclined to pass the following order:-

(i) The order dated 05.03.2022 passed in Crl.M.P.No.2157 of 2021 in unnumbered Criminal Appeal of 2021 on the file of the learned Principal District and Sessions Judge, Cuddalore, is set aside.

(ii) The delay of 1897 days in filing the appeal as against the judgment dated 28.10.2014 passed by the learned District Munsif-cum-Judicial Magistrate, Neyveli in S.T.C.No.121 of 2009, is condoned.

(iii) The learned Principal District and Sessions Judge, Cuddalore, is directed to number the appeal and after making arrangements for the production of the petitioner before him, entertain the petition filed under Section 147 of NI Act for compounding the offence and dispose of the same within a period of one month.

(iv) In this regard, the respondent in this Revision Petition, is directed to appear before the learned Principal District and Sessions Judge, Cuddalore, on 02.06.2022 and file a memo along with a copy of this order.

(v) Crl.M.P.No.6126 of 2022 is closed, with liberty to file a fresh application before the First Appellate Court.

9. With the above directions, this Criminal Revision Petition stands allowed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

sri

To

1. The Principal District and Sessions Judge,
Cuddalore.

2. The District Munsif-cum-Judicial Magistrate,
Neyveli.



+1cc to Mr.R.Suryaprakash, Advocate Sr.30360

+1cc to Mr.F.Wellington, Advocate Sr.31126

[25/05/2022]

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and
Cr1.M.P.No.6126 of 2022

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