



*Crl.M.P.No.456 of 2022
in Crl.A.SR.No.19920 of 2021*

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D.BHARATHA CHAKRAVARTHY, J.

This petition is to condone the delay of 435 days in filing the Criminal Appeal against an acquittal. The order of acquittal was passed on the ground of the default of the complainant. The compliant is under Section 138 of the Negotiable Instruments Act, 1881. The learned Counsel for the petitioner had stated that the learned Counsel, who had to take care of the matter, did not attend the Court since his daughter passed away and the staff, who is supposed to appear, left the company and thereafter, the complainant's wife had passed away and on account of all these incidents happening for a period of time, immediately certified copy of the order of dismissing the complaint for default could not be obtained and the appeal is not filed in time.

2. The learned Counsel for the respondents would submit that in this case, the delay on the part of the complainant has caused serious prejudice to the respondents/accused as they have been facing the prosecution from the year 2013 and at this belated stage, they cannot now be forced to face the prosecution and the present condonation of the delay will result in violation of their right to speedy trial.

3. I have considered the rival submissions made on either side and perused the material records of the case. On a complete reading of the affidavit filed in support of the application and the counter-affidavit and the complaint before the Trial Court, I am of the view that the reasons, mentioned in the affidavit filed by the petitioner in support of the application, to condone the



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delay, are satisfactory and are acceptable reasons to condone the delay. Even though the respondents/accused are put to hardship, it cannot be said that the condonation of delay at this stage will cause irreparable prejudice to them and the hardship faced by the respondents/accused can be properly overcome by putting the complaint on terms.

4. In that view of the matter, the delay is condoned on condition that the petitioner/complainant shall pay a sum of Rs.20,000/- as costs to the respondents on or before 12.08.2022.

5. Post the matter on 12.08.2022 for compliance.

26.07.2022
(2/2)

grs



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