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Crl.RC.No.1399 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1399 of 2022

T.Madhusudhanan

... Petitioner

Vs.

T.Meiyazhagan

... Respondent

Prayer: Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to call for the records pertaining to the order dated 05.09.2022 passed in C.M.P.No.2005 of 2022 in the unnumbered S.T.C.No. of 2022 passed by the Judicial Magistrate, Fast Track Court No.1, Erode and set aside the same.

For Petitioner

: Mr.Balaji Thirumoorthy

ORDER

The Criminal Revision Case has been filed seeking to set aside the order dated 05.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1, Erode, in C.M.P.No.2005 of 2022 in the un-numbered STC No. of 2022.



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2. The petitioner is accused. The respondent is the complainant. The respondent filed a complaint under Section 200 Cr.P.C. against the petitioner in un-numbered STC No. of 2022 for the offence under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate, Fast Track Court No.1, Erode. Since the said complaint was not filed within the statutory time of one month, the respondent/complainant also filed a petition to condone the delay of 17 days in filing the complaint. After service of notice, the petitioner/accused also filed a counter before the Magistrate and the learned Magistrate, after considering both the affidavit and the counter affidavit, condoned the delay. Challenging the said order of condoning the delay, the petitioner/accused has filed the present revision before this Court.

3. The learned counsel for the petitioner/accused would submit that no reason had been assigned in the affidavit and the number of days of delay was also not properly mentioned and without any reason, the trial Court has mechanically ordered the petition for condonation of delay filed by the respondent/complainant which warrants interference of this Court.



4. Heard the learned counsel for the petitioner/accused and perused the materials available on record.

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5. Admittedly the respondent/complainant has not filed the complaint within the statutory period and there was delay of 17 days in filing the complaint. Therefore, the respondent/complainant also filed a petition in C.M.P.No.2005 of 2022 to condone the delay in filing the complaint under Section 200 Cr.P.C. and the said petition was allowed by the learned Magistrate by order dated 05.09.2022. The learned counsel for the petitioner/accused vehemently contended that no acceptable reason had been mentioned in the affidavit filed by the respondent/complainant. However, the trial Court has allowed the said petition stating in order to render substantial justice and to give an opportunity to the respondent complainant to proceed with the complaint.

6. As rightly pointed out by the learned counsel for the petitioner/accused, no plausible reason was assigned in the affidavit filed by the respondent/complainant. However, condoning the delay is purely the discretionary power of the trial Court. Unless there is arbitrariness or



malafidness, the revision court will not interfere with the order of the trial Court. Further, the trial Court while allowing the petition, has given reasons as “to enable the complainant to contest the case on merits and to meet the ends of justice”. Therefore, this Court does not find any merit in the revision and the revision is liable to be dismissed.

7. Accordingly, this Criminal Revision Case is dismissed at the admission stage itself.

14.10.2022

ksa-2



Crl.RC.No.1399 of 2



To

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The Judicial Magistrate,

Fast Track Court No.1, Erode,



WEB COPY

Crl.RC.No.1399 of 2



P.VELMURUGAN,J.

Ksa-2

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