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IN THE HIGH COURT OF JUDICATURE AT MADRAS

[RESERVED ON : 13.06.2022]

[PRONOUNCED ON : 20.06.2022]

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL.R.C.NO.566 OF 2017

Munirathinammal
W/o.Late.Balasubramaniam

... Petitioner

vs.

T.E.Aruna
W/o. Navabalan,

... Respondent

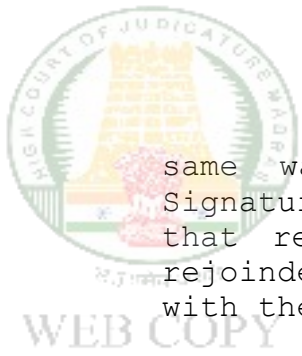
Prayer: Criminal Revision petition filed under Sections 397 r/w 401 of Cr.P.C, to call for the records and set aside the order passed in C.M.P.No.7150(A)/2016 on the file of Judicial Magistrate, Ambattur and condone the delay of 353 days in preferring the complaint.

For Petitioner : Mr.G.Peramban

For Respondent : Mr.T.Nixon

ORDER

This Criminal Revision is directed against the order dated 04.02.2017 passed in C.M.P.No.7150 (A)/2016 on the file of the learned Judicial Magistrate, Ambattur dismissing the petition filed by the petitioner herein under Section 142 (b) for condoning the delay of 353 days in filing the complaint under Section 138 of Negotiable Instrument Act. The petitioner is the complainant before the learned Judicial Magistrate. She preferred a complaint under Section 138 of Negotiable Instrument Act alleging that the accused issued a cheque for Rs.25,00,000/- (Rupees Twenty Five Lakhs) towards repayment of loan advanced by her; that when the said cheque was presented for collection the



same was returned by the Banker for the reasons "Drawer Signature differs"; that when she had issued statutory notice that respondent issued a reply; that the complainant issued rejoinder to the said reply and that the complaint was filed with the delay of 353 days on 04.08.2016.

2. The Complainant filed a petition under Section 142 (b) of the Negotiable Instruments Act and prayed for condonation of delay stating that she could not file the complaint within the statutory period because she was taking care of her ailing Mother in law and she had gone on a pilgrimage to Himalayas, Amarnath, Kedernath and Kasi and; that she delayed the filing of complaint since the accused promised her to pay the said amount. The respondent filed a counter denying all the averments.

3. The learned Judicial Magistrate dismissed the petition on the ground that the reasons furnished in the petition for condonation of delay was not sufficient and further held that the fact that the accused promised to pay and hence the complainant delayed the filing on the complaint cannot be believed. The learned Judicial Magistrate further held that the complainant has remedy before the Civil Forum to recover the aforesaid debt.

4. Heard, both sides.

5. It is settled law that there cannot be any hard and fast rule for deciding an application for condonation of delay. The expression "sufficient cause" in Section 5 of the Limitation Act as well as in Section 142 (b) of Negotiable Instrument Act is elastic enough to enable the Courts to apply the law in a purposeful manner to meet the ends of justice. The Courts always held that a liberal approach should be adopted while considering the petition for condoning the delay so that substantive rights of the parties are not defeated merely because of the delay.

6. We are of the view that Courts have to be pragmatic in their approach while dealing with condone delay petitions, unless the delay is unduly long and it appears to the Court that the lis itself is either vexatious or frivolous.

7. In such view of the matter, this Court is of the view that the complainant has given satisfactory reasons for condonation of delay and it would be in the best interest of justice if the delay is condoned and parties are allowed to adjudicate the disputes in the trial. The order of the learned Judicial Magistrate is hereby set aside and the learned Magistrate may take further action in the complaint in accordance with law.



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8. For the foregoing reasons, the Criminal Revision is allowed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

dk

To

1. The Judicial Magistrate, Ambattur.
2. -do- through The Chief Judicial Magistrate,
Thiruvallur.

+1cc to Mr.G.Peramban, Advocate, S.R.No.36973

+1cc to Mr.T.Nixon, Advocate, S.R.No.37270

Cr1.R.C.No.566 of 2017

GPL (CO)
RLP (30/06/2022)