



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of March Two Thousand and Twenty Two

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.3872 of 2022

IN

CRL RC(MD) No.589 of 2009

MURUGESAN

... PETITIONER/ACCUSED-2

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
VALLAM POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO. 114 OF 2007).

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to condone the delay of 605 days for filing the restoration petition in Crl R.C (MD) No. 589 of 2009 and to pass an order to restore the Crl.R.C.(MD) No.589 of 2009 which was dismissed for default on 19.06.2018 on the file of this Hon'ble Court.

PRAYER IN CRL RC(MD) No.589 of 2009 :

To call for the records pertaining the Judgment and conviction passed by the learned I Additional Sessions Judge (Protection of Civil Rights), Thanjavur in C.A.No.84 of 2008 dated 26.10.2009 confirming the judgment and conviction passed by the learned Judicial Magistrate No.2, Thanjavur in C.C.No.274 of 2007 dated 17.10.2008 convicting the petitioner for the alleged offences under section 326 IPC and sentenced him to undergo 1 year rigorous imprisonment and imposed to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SENTHILKUMAR.A, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The above petition has been filed seeking orders to condone the delay of 605 days in filing the restoration petition in Crl.R.C.(MD) No.589 of 2009, which was dismissed for non-prosecution on 19.06.2018.



2. It is seen from the records that when the matter was taken up on earlier occasion, there was no representation for the revision petitioner and hence, this Court directed the Registry to post the matter under the caption " for dismissal" on 19.06.2018 and that on 19.06.2018 as there was no representation, this Court passed an order dismissing the Criminal Revision Petition for non-prosecution.

3. The learned Counsel for the petitioner would submit that earlier Counsel on record viz., Mr.K.Jeganathan had died and the same was not known to the petitioner and hence, he was not in a position to prosecute the revision petition and that is why the present delay has occurred and that the delay is neither wanton nor wilful.

4. The learned Additional Public Prosecutor appearing for the State would submit that the delay is inordinate and that the petition may be allowed on terms.

5. Considering the facts and circumstances and also taking note of the delay occurred, this Court is of the view that the petitioner may be given one more opportunity to prosecute the case, but at the same time, considering the length of delay, the petitioner is to be mulcted with costs. Accordingly, this petition will be allowed on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand Only) to the Madurai Bench of Madras High Court Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No.7087208431, IFSC IDIBI000H040] on or before 01.04.2022.

6. Post the matter on **04.04.2022.**

sd/-
24/03/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE I ADDITIONAL SESSIONS JUDGE (PCR),
THANJAVUR.
2. THE JUDICIAL MAGISTRATE NO.2,
THANJAVUR.
3. THE INSPECTOR OF POLICE,
VALLAM POLICE STATION,
THANJAVUR DISTRICT.



4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO :

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THE OFFICER-INCHARGE,
ADVOCATES WELFARE FUND,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.3872 of 2022
IN
CRL RC (MD) No.589 of 2009
Date :24/03/2022

USK/VR/SAR-III/25.03.2022/3P/6C