



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.R.C. (MD)No.493 of 2020

and

CrI.M.P(MD)No.4408 of 2020

Peraathu Selvam

...Petitioner/Respondent

Vs.

Alagu Sundaram

... Respondent/Complainant

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for the records and set aside the order dated 14.03.2020 passed in Cr.M.P.No.5141 of 2019 on the file of the learned Judicial Magistrate, Sathankulam, Thoothukudi District.

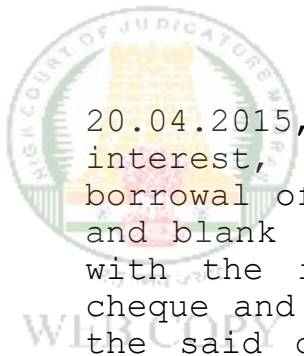
For Petitioners : Mr.A.Thiruvadi Kumar for
K.Veilmuthu
For R1 : Mr.G.Thalaimutharasu

ORDER

The criminal revision case has been filed seeking to set aside the order passed by the learned Judicial Magistrate, Sathankulam, Thoothukudi District in Cr.M.P.No.5141 of 2019, dated 14.03.2020, thereby allowed the petitioner to condone the delay of 9 days in presenting the complaint.

2.The respondent had lodged a complaint for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, as against the petitioner alleging that the petitioner had borrowed a sum of Rs.3,50,000/- on 20.01.2019. In order to repay the same, the petitioner had issued a cheque and the same was presented for collection. However, it was returned dishonored for the reason account dormant. After causing statutory notice, the respondent had lodged a complaint with the delay of 9 days along with the condone delay petition to condone the delay of 9 days and the same was allowed. Aggrieved by the same, the present revision has been filed by the petitioner.

3.The learned Counsel appearing for the petitioner would submit that in the affidavit filed in support of the condone delay petition, the respondent had stated the reason that after causing statutory notice to the petitioner, the petitioner assured that within a period of two months, he will return the amount, whereas, the petitioner on receipt of the statutory notice, he issued a detailed reply notice, dated 28.03.2019 and categorically stated that the petitioner had borrowed only a sum of Rs.50,000 on



20.04.2015, that too after deducting a sum of Rs.5,000/- as interest, for development of his business. At the time of the borrowal of the loan, the respondent received blank signed cheques and blank signed pronote. Even after repayment of the entire loan with the interest, the respondent failed to return the original cheque and the signed blank pronote. After a period of four years, the said cheque was misused by the respondent and presented the complaint. Without considering these aspects, the Court below allowed the condone delay petition.

4.It is seen from the records, even though the petitioner stated in the reply notice that the alleged cheque was issued for security purpose while borrowing the loan of Rs.50,000/- on 20.04.2015, after repaying the entire loan amount, the petitioner did not take any steps to get back the signed blank cheque and signed blank pronote from the respondent herein. Further, with the delay of only 9 days and as such, whatever the defence taken by the petitioner, it has to be gone into by trial.

5.In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the criminal revision case is dismissed. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lr

To

The Judicial Magistrate,
Sathankulam Thoothukudi District.

+1 CC to M/s.K. VEILMUTHU, Advocate (SR-17318[F] dated 07/04/2022)

CrI.R.C.(MD)No.493 of 2020
07.04.2022

SB(CO)
KB(22.04.2022) 2P 3C