



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 18.03.2022

CORAM:

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.R.C. (MD)No.139 of 2018

WEB COPY

V.Vijayakumar

... Revision Petitioner/Petitioner

vs.

N.Gunasekaran

... Respondent/Respondent

PRAYER : Criminal Revision Petition is filed under Section 397 of the Code of Criminal Procedure, to call for the records pertaining to the order in Cr.M.P.No.159 of 2018 dated 29.01.2018 on the file of the learned Judicial Magistrate No.VI, Madurai and set aside the same.

For Petitioner : Mr.R.Narayanan

For Respondents : No appearance

O R D E R

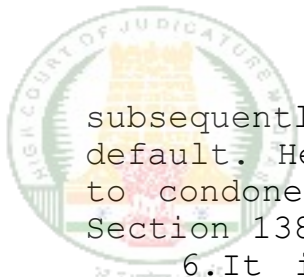
This Criminal Revision Petition is directed against the order passed, in Cr.M.P.No.159 of 2018 dated 29.01.2018, dismissing the petition for non-prosecution under Section 256 Cr.P.C.

2.Despite receipt of Court notice, the respondent has not turned up.

3.The revision petitioner is the complainant and he has filed a complaint under Sections 138 r/w 142 of Negotiable Instruments Act along with an application under Section 142(b) r/w 9 of Negotiable Instruments (Amendment) Act and under Section 5 of Limitation Act, to condone the delay of 22 days in filing the main complaint within prescribed time.

4.It is seen from the records that after receipt of Court notice, the respondent has entered into an appearance and the case was posted for filing of the counter. Thereafter, since the petitioner has not turned up, the learned Magistrate has directed to issue notice to the complainant and respondent to appear on 29.01.2018 and that since the petitioner/ complainant has failed to appear on that day, the learned Magistrate, by recording that the complainant/petitioner herein has not turned up for several hearings, has dismissed the petition for non-prosecution.

5.The learned counsel for the petitioner would submit that the petition was earlier posted for filing of the counter statement, but



subsequently after two hearings, the petition was dismissed for default. He would further submit that he has filed the application to condone the delay of 22 days in preferring a complaint under Section 138 r/w 142 of Negotiable Instruments Act.

6.It is further evident that after dismissal of the condone delay petition in Cr.M.P.No.159 of 2018 the learned Magistrate has passed a consequential order closing the Cr.M.P.No.2656 of 2017.

7.Considering the above facts and also taking note of the dismissal of the condone delay petition, this Court is of the view that one more opportunity should given to the petitioner but, at the same time, this Court is also of the view that the petitioner must be mulcted with costs.

8.In the result, this Criminal Revision Petition will be allowed and the order passed in Cr.M.P.No.159 of 2018 by the learned Judicial Magistrate No.VI, Madurai, dated 29.01.2018 shall stand set aside on payment of cost of **Rs.2,000/- (Rupees Two 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, failing which this Criminal Revision Petition shall stand dismissed automatically without further reference to this Court.

Sd/-

Assistant Registrar(A.E)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.VI,
Madurai.

2.The Officer Incharge,
Madurai Bench of Madras High Court Advocates
Welfare Fund,
Madurai.

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Date:18.03.2022

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