



Crl.Rc.No.62 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.RC.No.62 of 2023

Malliga

... Petitioner

Vs.

State represented by
The Sub Inspector of Police,
G-3 Kilpuk Police Station,
Kilpauk, Chennai – 10
(Crime No.1214/2005)

... Respondent

Prayer: Criminal Revision petition filed under Section 297 r/w 401 of Cr.P.C to set aside the order dated 09.12.2022 passed in Crl.M.P.No.24517 of 2022 on the file of the Principal Sessions Judge, Chennai and pass orders.

For Petitioner : Mr.N. Kannan
For Respondent : Mr.V. Meganathan
Government Advocate



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ORDER

This Criminal Revision petition is filed to set aside the order dated 09.12.2022 passed in Crl.M.P.No.24517 of 2022 on the file of the Principal Sessions Judge, Chennai

2. The learned counsel for the petitioner contended that the petitioner had filed a criminal appeal in Crl.A.SR.No.24516 of 2022 against the judgment in C.C.No.2124 of 2007 dated 03.10.2022 with the petition to condone the delay of 5 days in preparing the appeal, which was dismissed for default by the appellate Court for non appearance of the petitioner on 09.12.2022. Hence, seeking to set aside the impugned order.

3. Heard the learned Government Advocate (Crl.side) for the respondent.

4. I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent.



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5. On perusal of the records, it is seen that the petitioner filed a criminal appeal in Crl.A.SR.No.24516 of 2022 against the judgment in C.C.No.2124 of 2007 dated 03.10.2022 with the petition to condone the delay of 5 days. After receiving the condone delay petition for filing the criminal appeal in Crl.A.Sr.No.24516 of 2022, numbered the petition in Crl.M.P.No.24517 of 2022 and on 09.12.2022 when the petition was posted for enquiry, the petitioner not appeared and for his non appearance, the delay condonation petition was dismissed for default. It is prima facie seen that the impugned order was passed only for non appearance of the petitioner and the same was dismissed for default.

6. Under these circumstances, the petitioner can very well file the application to restore the condone delay petition for passing order on merits. Without filing that application, straight away filed this criminal revision against the impugned order, is unsustainable. I find no merit. Hence, the criminal revision case is dismissed with liberty to



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file an application before the Court for restoration of the condone delay petition in Crl.M.P.No.24517 of 2022.

11.01.2023

Index:Yes/No
Internet:Yes/No
smn

To

1. The Sub Inspector of Police,
G-3 Kilpuk Police Station,
Kilpauk, Chennai – 10
2. Principal Sessions Judge, Chennai
- 3.The Government Advocate, High Court, Madras.



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V.SIVAGNANAM, J.

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