



CrL.RC.No.931 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrL.R.C.No.931 of 2023 &

CrL.M.P.No.7572 of 2023

R.Thiyagarajan
Proprietor of Sairam Exports,
Door No.14, Kudai Veedu, Aarappalayam,
Cross Road, Madurai – 625 016.

... Petitioner

/vs/

1. P.Sivasubramanian [Deceased]
2. Sumathi
3. Kaaliammal
4. Minor Nakul
5. Minor Sarvesh

[Minor petitioners 3 & 4 are represented by their
mother & Guardian, Sumathi, 1st respondent herein] ... Respondents

Prayer : Criminal Revision Petition filed under section 397 [1] read with 401 of Cr.P.C., to set aside the Order dated 15.02.2023 passed by the Judicial Magistrate, Palladam in Cr.M.P.No.5501 of 2022 in S.T.C.No.116 of 2019 and thereby allow the above Criminal Revision Petition.

For petitioner

... Mr.K.Azhagu Raman



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Crl.RC.No.931 of 2023

ORDER

This Criminal Revision has been preferred to set aside the Order dated 15.02.2023 passed by the learned Judicial Magistrate, Palladam in Cr.M.P.No.5501 of 2022 in S.T.C.No.116 of 2019 and allow the present Criminal Revision Case.

2. The learned counsel for the petitioner would submit that the petitioner is the accused in S.T.C.No.116 of 2019 on the file of the Judicial Magistrate, Palladam. The learned counsel for the petitioner however contended that complainant Sivasubramanian filed a complaint against the petitioner/accused for the offence under section 138 of the Negotiable Instruments Act. During the pendency of the above criminal complainant, the complainant died and hence, the respondents 2 to 4 have filed a petition in Crl.M.P.No.5501 of 2022 to implead them as legal representatives of the deceased complainant. The above petition was allowed on 15.02.2023. Aggrieved by the said Order, the present revision has been filed.



3. The learned counsel for the petitioner contended that the death of the complainant has not been properly represented before the trial Court and his actual date of death is 09.08.2020. The learned counsel further contended that the delay in filing the petition was not properly explained and the same was not discussed in the impugned Order. Hence, it is submitted that the impugned Order has to be set aside.

4. On a perusal of the records and the impugned Order, it is seen that the complainant, Sivasubramanian has filed the complaint against the petitioner/ respondent in S.T.C.No.116 of 2019 for the offence under section 138 of Negotiable Instruments Act and during the pendency of the case, the complainant died on 09.08.2020. Further, it is seen that the death of the complainant has not been reported immediately and no petition has been filed to condone the delay in impleading the legal representatives. Date of death of the complainant on 09.08.2020 is not disputed. The legal heirs of the complainant are respondents 1 to 4 and the same is also not disputed. Under these circumstances, on technical grounds, that the delay was not explained



and not discussed by the trial Court in the impugned Order is not a ground to allow the revision. Considering the nature of the case and in order to give a fair chance to the petitioner to contest his case before the trial Court, the respondents are permitted to pursue the complaint against the petitioner before the trial Court, after the death of the complainant. Therefore, I find no infirmity in the impugned Order and there is no valid ground for interfering with the impugned Order and the present revision is liable to be dismissed.

5. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

02.06.2023

vrc

To

The Judicial Magistrate, Palladam.



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CrI.RC.No.931 of 2023

V.SIVAGNANAM, J.

VRC

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