



CRL MP(MD) No.9020 of 2023

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

Tuesday, the Eighth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.9020 of 2023

and

CRL A(MD) SR.No.22961 of 2023

1 M/S.STANDARD FIREWORKS (P) LTD SIVAKASI,
REP BY ITS STAFF AND AUTHORIZED PERSON,
V.AMOSE JEYASINGH

... Appellant / Complainant

Vs

1 M/S.SAI HANUMAN FIREWOKS CO.,
ITS PROPRIETOR T.SAIRAM

2 T.SAIRAM

... Respondents / Accused

Criminal Miscellaneous 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 319 days in filing the present appeal before this Honourable Court in Connection with the order passed by the Learned Judicial Magistrate Court No.1 Sivakasi in C.C.No.249/2017 dt 28.03.2023.

Prayer in Crl A(MD) Sr.No.22961 of 2023:

To call for the records from the Learned Judicial Magistrate Court No.1, Sivakasi in C.C.No.249 of 2017, dated 28.03.2022 and SET ASIDE the same.

Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SOLAISAMY.M, Advocate for the petitioner, the court made the following order:-

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CRL MP(MD) No.9020 of 2023

WEB COPY
Appeal.

This petition is filed to condone the delay of 319 days in filing the above

2.The petitioner is the complainant in C.C.No.249 of 2017 on the file of the learned Judicial Magistrate Court No.I, Sivakasi. He filed a private complaint before the said Court under Section 138 of Negotiable Instruments Act against the respondent herein. The same was dismissed by the impugned order dated 28.03.2022. Challenging the same, he filed the appeal with a delay of 319 days. In this petition, he stated reasons in paragraphs 5 & 6, which are as follows:-

“5.I respectfully submit that my case in C.C.No.249 of 2017 was decided by the learned Judicial Magistrate Court No.1, Sivakasi on 28.03.2022. My counsel applied for the copy of the order in C.C.No.249 of 2017. The Registry has called for the stamps on 12.04.2022. Subsequently, the copy of the order in C.C.No.249 of 2017 was made ready on 09.06.2022. Thereafter, I decided to prefer and appeal against the order before this Court. So, I approached my counsel to file the appeal before this Court.

6.I respectfully submit that I was instructed by my counsel that he has recently shifted his office from K.Pudur to Valarnagar. He has kept the disposed bundles at his office. My case bundle was also kept



CRL MP(MD) No.9020 of 2023

WEB COPY

at his office and the same was mingled with old case bundles. Finally, my bundle was recently found out from my counsel's office. Immediately, I filed the present appeal and I could not file the appeal within the time as prescribed by the Act. Hence, there is delay of 319 days in filing the said appeal before this Court.”

3.The second respondent opposed this petition by filing counter and paragraph 4 of the counter which is as follows:-

“4.I submit that the petitioner had stated that the copy of order in C.C.No.249 of 2017 was made ready on 09.06.2022 and he decided to prefer an appeal and approached his counsel to file the appeal. Whereas the petitioner has deliberately not stated as to when he approached his counsel to file appeal. Further, the petitioner had stated as if he was instructed his counsel that he has recently shifted his office from K.Pudur to Valar Nagar without even stating the date when his counsel stated him about the shifting of his office and when the bundle were found out from his Counsel's office. The affidavit is bereft of material particulars regarding the huge delay and the reason for the delay except a vague statement without any chronological continuity and logic.”



CRL MP(MD) No.9020 of 2023

4.This Court considering the rival submission and perused the records.

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5.It is the case where the petitioner filed a complaint under Section 138 of Negotiable Instruments Act, the same was dismissed. Hence, he filed statutory appeal against the dismissal order. In order to provide opportunity to file statutory appeal, this Court is inclined to accept the reasons adduced by the petitioner. Apart from that, the reason assigned by the petitioner is bona fide.

6.Accordingly, this petition is allowed on condition that the petitioner shall pay a sum of Rs.1,500/- (Rupees One Thousand and Five Hundred Only) to the credit of Women Advocates Association, Madurai Bench of Madras High Court (Account No:-770357420, IFSC Code:- IDIB000H040, Indian Bank) within a period of two weeks from the date of receipt of a copy of this order, failing which, this Petition shall stand automatically dismissed without further reference to this Court.

sd/-
08/08/2023

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/08/2023

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

DSS

To

1.The Judicial Magistrate No.I,

Sivakasi

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.9020 of 2023

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputtur.

Copy to:

1.The Officer Incharge,
Women Advocates Association,
Madurai Bench of Madras High Court, Madurai.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SOLAISAMY, Advocate (SR-11955[I] dated 08/08/2023)

ORDER
IN
CRL MP(MD) No.9020 of 2023
and
CRL A(MD) SR.No.22961 of 2023
Date :08/08/2023

ED/VR/SAR- (17/08/2023) 5P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023