



CRL MP(MD) No.1656 of 2023

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

Wednesday, the Sixteenth day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.1656 of 2023

IN

CRL A(MD)SR.28104 of 2022

PONNAPPAN

... APPELLANT/PW-1/DEFACTO COMPLAINANT

Vs

1 THE INSPECTOR OF POLICE
MANAVALKURICHI POLICE STATION,
KANYAKUMARI DISTRICT.

CRIME NO. 184/1997

... 1st RESPONDENT/COMPLAINANT/
COMPLAINANT

2 SASIKUMAR

3 BALAMANOHAR

... RESPONDENTS 2 & 3/APPELANTS/ACCUSED 1 & 4

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 1663 days in filing the Criminal appeal against the Order Crl A No. 38/2012 dt 08.12.2015 on the file of the Mahila Fast Track Court, Nagercoil against the judgment in C.C No. 311/2002 dt 17.05.2012 on the file of the Principal District Munsif cum Judicial Magistrate, Earaniel to prefer this appeal pending disposal of above Criminal Revision.

PRAYER IN CRL.A(MD)SR.28104/2022:

Pleaded to call for records in Crl.A.No.38/2012 dated 08.12.2015 on the file of

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



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Mahila Fast Track Court, Nagercoil modifying the judgement passed in C.C.No.311/2002 dated 17.05.2012 on the file of the Learned Principal District Munsif Cum Judicial Magistrate, Eraniel, set aside the same and enhance sentence by the allowing this Appeal.

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.SUSI KUMAR.C, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(crl.side) on behalf of the 1st Respondent and none appeared for the Respondents No.2 & 3 either in person or by an advocate, the court made the following order:-

This petition is filed to condone the delay of 1663 days in filing the above Appeal.

2.The petitioner is the defacto complainant in Crime No.184 of 1997 on the file of the first respondent police. According to the petitioner, he sustained injury at the hands of the accused/respondents 2 & 3 in the above crime number. The occurrence took place on 09.07.1997 at 02.00 p.m. So, the respondent police registered a case and complete the investigation and filed a final report before the learned Principal District Munsif cum Judicial Magistrate, Earaniel, and the same was taken on file in C.C.No.311 of 2002. The learned trial Judge, after conducting the trial, convicted the accused/respondents 2 & 3 by passing judgment dated 17.05.2012. Challenging the same, the accused/respondents 2 & 3 preferred the appeal before the Mahila Fast Track Court, Nagercoil, in Cr.A.No.38 of 2012. The said appeal was allowed on 08.12.2015 and the accused/respondents 2 & 3 were acquitted from the conviction



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and sentence passed by the learned trial Judge. Challenging the same, he filed the present appeal with condone the delay of 1633 days.

3. According to the petitioner, the judgment passed by the Appellate Court was not brought to the knowledge of him. On knowing the above fact, he obtained the certified copy of the appeal. Hence, the said delay has been happened. The reasoning of the learned counsel for the petitioner is acceptable one. There was no mechanism provided regarding the information furnished to the petitioner/defacto complainant about the acquittal order passed by the Appellate Court.

4. This Court also satisfied with the reasons assigned in the paragraph 7 of the affidavit, which reads as under:-

“7. I submit that though the prosecution has clearly establish the case beyond reasonable doubt based on our credible evidence, the learned Appellate Court acquitted the accused/respondents 2 & 3 for non-recovery of weapon. The Apex Court repeatedly held that non-recovery of crime weapon will not discredit the entire case of prosecution. Apart from the the learned Appellate Court has given a finding that the respondents 2 & 3 have committed crime and they should be punished for offence under Section 323 of IPC, however they are acquitted on the ground of mercy, it cannot be done. I am



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senior citizen aged about 68 years and illiterate person even I do not know what can do against the judgment of acquittal. Now, my relatives helped me to preferred this appeal, apart from that I came to understand that the respondents 2 & 3 have committing offence continuously and number of cases have been registered after this judgment. Therefore, the delay of 1663 days was occurred and the delay was happened neither willful nor wanton and unless the delay was condoned I will be put to irreparable loss and hardship."

5. Accordingly, this petition is allowed on condition that the petitioner shall pay a sum of Rs.1,000/- (Rupees One Thousand 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/-
16/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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DSS

TO

1 THE JUDGE,
MAHILA FAST TRACK COURT, NAGERCOIL.

2 THE PRINCIPAL DISTRICT MUNSIF
CUM JUDICIAL MAGISTRATE, ERANIEL.

3 THE INSPECTOR OF POLICE
MANAVALKURICHI POLICE STATION,
KANYAKUMARI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE
WOMEN ADVOCATES ASSOCIATION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER
IN
CRL MP(MD) No.1656 of 2023
IN
CRL A(MD)SR.28104 of 2022
Date :16/08/2023

SA/VRS/SAR. /29.08.2023/5P/6C

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