



CRL MP(MD) No.10240 of 2023

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

Friday, the Eighteenth day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.10240 of 2023

in

CRL A(MD) SR No.26993 of 2023

MARUTHASALAMOORTHY

... Appellant / Complainant

Vs

PARAMASIVAM

... Respondent / Sole 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 410 days in preferring the appeal against the order passed by the District Munsif Cum Judicial Magistrate Court Orathanadu in STC No.313/2015 Dt 08.01.2019.

Prayer in CRL A(MD) SR No.26993 of 2023:

To set aside the order passed by the District Munsif cum Judicial Magistrate Court, Orathanadu in S.T.C.No.313 of 2015 dated 08.01.2019 and to allow the appeal and to convict the respondent / accused under section 138 of the Negotiable Instrument Act to the maximum sentence and to award compensation twice the cheque amount.



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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.MAHENDRAN.K, Advocate for the petitioner and of Mr.C.SUSI KUMAR, Advocate for M/s.SUBASH LAW OFFICE, Advocate on behalf of the Respondent, the court made the following order:-

This petition is filed to condone the delay of 410 days in filing the above Appeal.

2.According to the complainant, the respondent/accused has borrowed a sum of Rs.13,50,000/- from the complainant on 22.03.2015 towards construction of house and family expenses and agreed to repay the said amount by getting loan from the Bank. For discharging the debt, the respondent has issued a cheque bearing No.063919 in favour of the complainant on 05.06.2015 drawn on State Bank of India, Tiruvonam Branch. The complainant has presented the cheque for collection through the Bank of India, Uranipuram Branch, the same was returned on 12.06.2015 with reason as "Exceeds Arrangements". The complainant has then sent a legal notice dated 20.06.2015 to the respondent demanding repayment of the amount covered by the cheque. The respondent after receiving the notice, sent a reply notice on 29.06.2015 with false averments and not come forward to pay the cheque amount and that therefore, the complainant has filed a complaint before the learned District



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Munsif cum Judicial Magistrate Court, Orathanadu, for the offence under Section 138 of Negotiable Instruments Act and the same was taken on file in S.T.C.No.313 of 2015. After conducting full fledged trial, the learned trial Judge, acquitted the respondent from the charge under Section 138 of Negotiable Instruments Act by the impugned order dated 08.01.2019.

3. Aggrieved over the same, the petitioner filed an appeal before the learned Principal Sessions Judge, Thanjavur, and the same was taken on file in C.A.No.16 of 2019. As per the Hon'ble Full Bench Judgment of this Court in Crl.A.Nos.89 and 90 of 2020 and Crl.RC.Nos.494 and 536 of 2019 dated 28.05.2020, the learned Principal Sessions Judge, Thanjavur, has returned the appeal to the petitioner by directing him to file an appeal before the appropriate forum. Hence, the petitioner filed the present appeal before this Court with the delay of 410 days.

4.In view of the ambiguity regarding the jurisdiction of the Appellate Court, the said delay has been occurred and the same is bona fide. Hence, this Court accepted the reason adduced by the petitioner and inclined to condone the delay.

5.Accordingly, this petition is allowed on condition that the petitioner shall pay a sum of Rs.1,500/- (Rupees Five Hundred and 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



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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/-
18/08/2023

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/09/2023

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

DSS

To

- 1.The Principal Sessions Judge,
Thanjavur.
- 2.The District Munsif cum Judicial Magistrate,
Orathanadu.
- 3.Do through the Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

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.K.MAHENDRAN, Advocate (SR-12434[I] dated 18/08/2023)



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ORDER

IN

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in

CRL A(MD) SR No.26993 of 2023

Date :18/08/2023

ED/JGB/SAR- (14/09/2023) 5P / 7 C

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