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Crl.R.C.No.12 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.12 of 2024

Arun Kumar

... Petitioner

Vs.

N.S.E.Baskar

... Respondent

Prayer : Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, praying to call for the records in connection with the Crl.M.P.No.3369 of 2023 in S.T.C.No.NIL of 2023 pending on the file of the learned Judicial Magistrate, No.I, Tirupattur, Vellore District and set aside the order dated 09.11.2023.

For Petitioner : Mr.E.Kanndasan

For Respondent : No appearance

ORDER

This Criminal Revision Case has been filed against the order dated 09.11.2023 made in Crl.M.P.No.3369 of 2023 in S.T.C.No.NIL of 2023 passed by the learned Judicial Magistrate No.I, Tirupathur, Vellore.



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2. The case of the petitioner is that, he filed a complaint u/s 138 of Negotiable Instruments Act, 1888 as against the respondent with a delay of 41 days in C.M.P.No.3369 of 2023 before the learned Judicial Magistrate No.I, Tirupattur, Vellore District, however, the said petition was dismissed by the trial court vide impugned order dated 09.11.2023. Challenging the same, the petitioner has filed the present revision before this court.

3. Learned counsel for the petitioner submitted that, the trial court dismissed the condone delay petition filed by the petitioner on the grounds that there is no proper explanation for condoning the delay of 41 days and the statutory notice was sent by the petitioner after the expiry of 30 days from the receipt of the return of the cheque. However, without giving an opportunity to the petitioner, the trial court dismissed the petition at the threshold, which is a clear violation of principles of natural justice. Accordingly, he prays for appropriate orders.

4. Though private notice was served and the name of the respondent was printed in the cause list, however, no one appeared on behalf of the respondent. Considering the pendency of this revision, this Court is inclined



to dispose of this revision based on the materials available on record.

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5. A perusal of the impugned order passed by the trial court reveals that, if the statutory notice is sent after the expiry of 30 days from the receipt of the return of the cheque from the bank, the complaint itself is not maintainable and the said delay cannot be condoned u/s 142(b) of the Act. Further, the complaint has to be filed before the trial court within one month after the expiry of 15 days from the date of receipt of the legal notice, however, the petitioner has filed the complaint along with delay petition. For the delay, though the petitioner has averred that he was under ailment and had taken treatment in the out of station, however, he has not even averred under what ailment he was affected by and where he was under treatment and in order establish the same, no materials has been produced before the trial court. It is pertinent to note that, if the complainant satisfies the court that he had sufficient cause for not making a complaint within the prescribed period, the cognizance of the complaint may be taken by the court as per section 142(b) of the Act. However, in the present case, the complainant has failed to satisfy the sufficient cause for not making a complaint within the prescribed period, thereby the trial court dismissed the condone delay petition filed by the petitioner, which cannot said to be illegal, perverse or arbitrary. Hence, this court is not inclined to



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interfere with the same.

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M.DHANDAPANI, J.

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6. Accordingly, this Criminal Revision Case is dismissed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Judicial Magistrate, No.I, Tirupattur, Vellore District.

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