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Crl.R.C.No.289 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.289 of 2022

P.Nathikarani

... Petitioner

Vs.

M.Selvaraj

... Respondent

PRAYER : Criminal Revision filed under Section 397 r/w 401 of the code of Criminal Procedure, to set aside the order dated 27.02.2019 passed by the learned Judicial Magistrate No.I, Mettur in Crl.M.P.No.1236 of 2018.

For Petitioner : Mr.R.Dilli Kumar

For Respondents : No appearance

ORDER

The criminal revision case is filed against the impugned order dated 27.02.2019 passed in Crl.M.P.No.1236 of 2018 by the learned Judicial Magistrate No.I, Mettur.



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2. The case of the petitioner is that the petitioner is the complainant and he filed complaint under Section 138 of the Negotiable Instruments Act as against the respondent for dis-honour of cheque which was returned with an endorsement "funds insufficient". However, in filing the C.C., there was a delay of 49 days in representing the case, for which, the petitioner filed a petition seeking condone delay. During the earlier hearing on 30.11.2018, the trial Court directed the petitioner to pay the process fee on or before 27.02.2019. However, due to non-payment of processing fee and non-appearance, the trial Court dismissed the petition on 27.02.2019. Aggrieved over the same, the present revision has been filed.

3. The learned counsel appearing for the petitioner submitted that as per Section 142 (1) (b) of the Negotiable Instruments Act, the cognizance of the case may be taken by the Court after the prescribed period if the complainant satisfies the Court that he had sufficient cause for not making a case within such period. Hence, the trial Court have the power to condone the delay, however, mere non-appearance and non-payment of process fee,



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the trial Court mechanically dismissed the condone delay petition, which is unsustainable.

4. Though the name of the respondent has been printed in the cause list, none appeared on behalf of him. Considering the pendency of this revision, this Court is inclined to dispose of this revision based on the materials available on record.

5. It appears that the petitioner has initially filed a complaint under Section 138 of Negotiable Instruments Act as against the respondent before the learned Judicial Magistrate No.I, Mettur for dishonour of cheque and the case was filed, meanwhile delay has been occurred to represent the case, for which, the petitioner has filed a condone delay petition in Crl.M.P.No.1236 of 2018 on the file of the Judicial Magistrate No.I, Mettur and the trial Court dismissed the petition on the ground of non-appearance and non-payment of process fee. On a careful perusal of the order of the trial Court, it is crystal clear that the trial Court has taken several precautionary steps before passing



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the order dismissing the petition. In fact, the trial Court, on 30.11.2018 has issued direction to the petitioner to pay process fee on or before 27.02.2019. Even though the trial Court has passed a conditional order, the petitioner has not come forward to pay the process fee. Here is a case, even though, the case is pending before the trial Court from 2018, the petitioner / complainant has not chosen to appear before the trial Court and also has not paid the process fee and therefore, the trial Court has rightly dismissed the petition. The attitude of the petitioner shows that the petitioner is not interested in pursuing the matter further and it should be nipped in bud and hence, I do not find any reason to interfere with the reasoned order of the trial Court dated 27.02.2019 made in C.M.P.No.1236 of 2018.

6. Accordingly, this Criminal Revision Case is dismissed.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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The learned Judicial Magistrate No.1,
Mettur.



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M.DHANDAPANI, J.

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