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Crl.R.C.No.656 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.656 of 2024

Indermal Ramani

... Petitioner

Vs.

1.M/s.DC Motor Works Private Limited
Represented by its Director
Mr.Dilip Harikishan Chhabria

2.Dilip Harikishan Chhabria
3.Kanchan Harikishan Chhabria
4.Minica Chhabria
5.Sajjad Riaz Meherally
6.Nihal Baldev Bajaj
7.John Manuel Colaco

... Respondents

Prayer:

Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, seeking to set aside the order dated 31.01.2024 passed in Crl.M.P.No.9 of 2024 in S.R.No.515 of 2020 by the Metropolitan Magistrate, Fast Track – II Court, Egmore, Allikulam, Chennai – 03 and allow this revision petition.

For Petitioner : Ms.Ramya Murali Kumaran
for M/s.MCGAN Law Firm

For Respondents : Mr.P.Arul Gnana Prakash for R1 & R2
R3 – Party – in – Person through V.C.
R4 – Died (Disd. as abated)
R5 to R7 – No Appearance



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CrI.R.C.No.656 of 2024

ORDER

This criminal revision has been filed seeking to set aside the order dated 31.01.2024 passed by the learned Metropolitan Magistrate, Fast Track – II Court, Egmore, Allikulam, Chennai, in CrI.M.P.No.9 of 2024 in S.R.No.515 of 2020.

2.The learned counsel appearing for the petitioner submitted that the petitioner is the complainant and he filed complaint under Section 138 of the Negotiable Instruments Act as against the respondents for dis-honour of cheque and the same was returned with some queries. Thereafter, the petitioner duly complied with the requirements and represented the complaint, however, there was a delay in representing the complaint, for which, the petitioner filed petition seeking condone delay and the said petition was dismissed on 31.01.2024.

3.The learned counsel appearing for the petitioner further submitted that as per Section 142 (1) (b) of the Negotiable Instruments Act, the cognizance of the complaint may be taken by the Court after the prescribed period if the complainant satisfies the Court



CrI.R.C.No.656 of 2024

that he had sufficient cause for not making a complaint within such period. Hence, the trial Court have the power to condone the delay, however, without exercising the discretionary power conferred under Section 142 (1) (b) of the Negotiable Instruments Act, the trial Court mechanically dismissed the condone delay petition, which is not sustainable.

4.The learned counsel appearing for the respondents submitted that since no proper reason was assigned for the delay, the petition filed by the petitioner was dismissed by the trial Court.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

6.The trial Court have the power to condone the delay, however, without exercising the discretionary power conferred under Section 142 (1) (b) of the Negotiable Instruments Act, the trial Court has mechanically dismissed the condone delay petition filed by the petitioner, which is not sustainable.

7.In view of the above, this Court is directed to set aside the



CrI.R.C.No.656 of 2024

impugned order. Accordingly, the order dated 31.01.2024 passed in CrI.M.P.No.9 of 2024 in S.R.No.515 of 2020 by the learned Metropolitan Magistrate, Fast Track – II Court, Egmore, Allikulam, Chennai, is set aside. The petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) as costs to the respondents (except R1 – Company and R4 – died) and produce proof of such payment before the trial Court. Upon production of such proof by the petitioner, the trial Court shall number the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act as against the respondent and shall dispose of the said complaint after providing opportunity to the petitioner and the respondents, as expeditiously as possible.

8.This revision is allowed on the above terms.

15.07.2024

pri
Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Metropolitan Magistrate,
Fast Track – II Court, Egmore,
Allikulam, Chennai.

4/5



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Crl.R.C.No.656 of 2024

M.DHANDAPANI,J.
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Crl.R.C.No.656 of 2024

15.07.2024