



Crl.RC.No.1301 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.R.C.No.1301 of 2023

T.Govindaraj

...Petitioner

Vs.

G.Suresh

...Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the order dated 12.12.2022 on the file of the learned Judicial Magistrate Fast Track Court (Magistrate level) at Poonamallee in Crl.M.P.No.2201 of 2022 in unnumbered S.T.C.No. of 2022.

For Petitioner : Mr. V.Stalin

For Respondent : Notice Dispensed with

ORDER

This Criminal Revision petition has been filed to set aside the order dated 12.12.2022 on the file of the learned Judicial Magistrate Fast Track Court (Magistrate level) at Poonamallee in Crl.M.P.No.2201 of 2022 in



Crl.RC.No.1301 of 2023

unnumbered S.T.C.No. Nil of 2022.

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2. It is the case of the prosecution that the petitioner filed a complaint u/s.138 of the Negotiable Instruments Act on the file of learned Fast Track Court, Poonamallee as against the respondent along with a petition u/s.5 of the Limitation Act to condone the delay of 89 days in filing the above complaint in C.M.P.No.2201 of 2022, however, the said petition was allowed vide order dated 01.12.2022 with a direction to the petitioner to deposit a sum of Rs.1,000/- to the District Legal Service Authority, Tiruvallur on or before 12.12.2022. Unfortunately, the petitioner was not able to comply the order of the trial Court within the specified time. Subsequently, the said order was complied with a delay of four days. As the petitioner has not complied the said order within the said time, the trial Court vide order dated 12.12.2022 has dismissed the condone delay petition filed by the petitioner. Challenging the same, the present revision petition has been filed.

3. Since no adverse order is being passed against the respondent,



CrI.RC.No.1301 of 2023

notice to the respondent is dispensed with.

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4. The learned counsel appearing for the petitioner submits that due to health ailments, the petitioner was not able to comply the order dated 01.12.2022 passed by the trial Court in C.M.P.No.2201 of 2022 within the time frame fixed by the trial Court. Though the petitioner has complied the said order with a delay of four days, the learned Magistrate dismissed the condone delay petition vide order dated 12.12.2022 on the ground that the petitioner has not complied the order dated 01.12.2022 within the time frame fixed by the trial Court, which is wholly unsustainable. Hence, the order passed by the trial Court is liable to be set aside.

5. Heard the learned counsel appearing for the petitioner and perused the materials placed on record.

6. Admittedly, the petitioner has prolonged the proceedings by not complying the order dated 01.12.2022 passed by the trial Court within the said time frame. Hence, this Court considers it appropriate to allow this



Crl.RC.No.1301 of 2023

petition on payment of costs.

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7. Accordingly, the present revision is allowed by setting aside the order dated 12.12.2022 passed by the trial Court in C.M.P.No.2201 of 2022 and the matter is remanded to the trial Court for fresh adjudication. As the petitioner has already deposited a sum of Rs.1,000/- to the District Legal Service Authority, Tiruvallur as per the order passed by the trial Court, this Court directs the petitioner to pay a sum of Rs.5,000/- as costs to the respondent for prolonging the *lis* within a period of two weeks from the date of receipt of this order. Upon receipt of the said payment, the trial Court is directed to number the complaint filed by the petitioner u/s.138 of the Negotiable Instruments Act and proceed the matter after providing an opportunity of personal hearing to the petitioner as well the aggrieved persons if any including the respondent in the manner known to law.

25.07.2024

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Index	: Yes/No
Speaking order	: Yes/No
NCC	: Yes/No

4/6



Crl.RC.No.1301 of 2023

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To
The Judicial Magistrate,
Fast Track Court (Magistrate level) at Poonamallee



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Crl.RC.No.1301 of 2023

M.DHANDAPANI, J.

rap

Crl.RC.No.1301 of 2023

25.07.2024