



Crl.RC.No.1192 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM:

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

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R.Rajkumar

...Petitioner

Vs.

A.Fakhruddin

...Respondent

Criminal Revision filed under Section 397 and 401 of Cr.P.C. to set aside the order in Crl.MP.No.509 of 2020 dated 19.08.2021 passed by the learned Judicial Magistrate Court No.III, Tiruppur and allow this Criminal Revision petition.

For Petitioner : Mr.J.Fanklin

For Respondent : Notice not ready

ORDER

The Criminal Revision case has been filed seeking quashment of the order dated 19.08.2021 passed in Crl.MP.No.509 of 2020 by the learned Judicial Magistrate Court No.III, Tiruppur.



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2. The case of the petitioner is that, the petitioner/complainant filed a complaint u/s. 138 r/w. 142 of Negotiable Instruments Act against the respondent for dishonour of cheque bearing No.000076 dated 19.09.2019 issued by him towards discharge of the liability of Rs.4,00,000/- payable to the petitioner. The legal notice was sent by the petitioner on 04.10.2019, however, the same was returned 'Not claimed' on 23.10.2019 and the complaint has to be filed within the statutory period of 30 days, after completion of grace period of 15 days from the date of issuance of the legal notice, which falls on 04.12.2019. However, due to certain health ailments, as the petitioner was bedridden, he was able to file the complaint only on 31.01.2020 with a delay of 91 days. Thereby, the petitioner filed a petition under section 142(b) of the Negotiable Instruments Act in Crl.MP.No.509 of 2020 seeking to condone the delay of 91 days in filing the complaint. However, the trial court, vide impugned order dated 19.08.2021 dismissed the said petition for non prosecution and not on merits. Challenging the same, the petitioner has come up with this Revision.



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3. Heard learned counsel for the petitioner and perused the material documents placed on record.

4. Though both Court notice and private notice was ordered on the respondent by this Court on 25.08.2022, notice through the Court is awaited and no effective steps has been taken by the petitioner to have the service effected for the past two years. Thereby, this Court, vide order dated 26.06.2024 directed the Government Advocate (Crl. Side) to instruct the jurisdictional police authorities to ensure the presence of the respondent before this Court on the next date of hearing, pursuant to which, the Government Advocate filed a certificate before this Court stating that the respondent was not residing in the address mentioned in the petition. In order to give a final chance, the matter was posted today ie., 23.07.2024.

5. Even today, when the matter was taken up for hearing the learned counsel for the petitioner has not filed any Proof of service before this Court and till date, the petitioner has not taken any effective steps to serve notice on the respondent and the petitioner failed to give the correct address of the



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respondent, enabling the law enforcing agency to ensure the appearance of the respondent before this Court, which clearly shows the intention of the petitioner to drag on the case. In such view of the matter, this Court is not inclined to entertain the present revision.

6. Accordingly, this Criminal Revision petition stands dismissed.

23.07.2024

skt

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

To

The Judicial Magistrate Court No.III,
Tiruppur.

M.DHANDAPANI, J.

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