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Crl.R.C.No.1536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.No.1536 of 2024

and

Crl.M.P.No.12820 of 2024

G.Vijayakumar

... Petitioner

Vs.

K.Murugesan

... Respondent

PRAYER: Criminal Revision filed under Sections 438 and 442 of Bharatiya Nagarik Suraksha Sanhita, to set aside the order dated 25.11.2022 passed by the learned III Additional District and Sessions Judge, Gobichettipalayam in Crl.A.No.19 of 2022 by confirming the judgment passed by the learned Judicial Magistrate No.II, Gobichettipalayam in C.C.No.174 of 2017 dated 03.12.2021.

For Petitioner : Mr.N.Chinnaraj

For Respondent : Mr.D.Prabhu Mukunth Arun kumar



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ORDER

This Criminal Revision Petition has been filed to set aside the order dated 25.11.2022 passed by the learned III Additional District and Sessions Judge, Gobichettipalayam in Crl.A.No.19 of 2022 by confirming the judgment passed by the learned Judicial Magistrate No.II, Gobichettipalayam in C.C.No.174 of 2017 dated 03.12.2021.

2.This Court, on 05.09.2024, passed the following order:

This petition is filed to condone the delay of 495 days in filing the above revision.

2.This Court, on 22.08.2024, had passed the following order:

“The petitioner/accused in C.C. No. 174 of 2017 on the file of Judicial Magistrate No.II, Gobichettipalayam, was convicted for the offences under Sections 138 and 142 of Negotiable Instruments Act, 1881 by judgment dated 03.12.2021 and sentenced to undergo simple imprisonment for one month and the petitioner was also directed to pay cheque amount of Rs.34,000/- to the defacto complainant.



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Aggrieved by the same, the petitioner preferred an appeal before the III Additional District and Sessions Court, Gobichettipalayam, in Criminal Appeal No. 19 of 2022 and the said appeal came to be dismissed by judgment dated 25.11.2022 thereby confirming the conviction and sentence imposed by the Trial Court. Challenging the same, the above criminal revision case has been filed with a delay of 495 days.

2.Learned counsel for the respondent/complainant has filed a counter objecting to condoning the delay stating that the cheque had been issued in the year 2017 and the petitioner had dragged on the case successfully before the Trial Court for more than four years and thereafter, on conviction, preferred an appeal, which also came to be dismissed and thus, seven years have gone by from the date of issuance of the cheque. After having delayed the proceedings before the Trial Court as well as before the Lower Appellate Court on one pretext or the other, now this revision petition has also been filed with a delay of 495 days without the petitioner surrendering before the Trial Court. The respondent had taken steps to secure the petitioner and only thereafter, the present revision has been filed is the



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contention of the learned counsel for the respondent.

According to the learned counsel, though ill-health of the petitioner has been cited as a reason for the delay in filing the revision, no medical certificate has been produced to substantiate the same. Therefore, the learned counsel strongly opposed the delay being condoned.

3.This Court is also unable to accept the reason assigned for condoning the delay. Further, the cheque is of the year 2017 for a sum of Rs.34,000/- and the Trial Court as well as the Lower Appellate Court have also confirmed the conviction of the petitioner. That being so, when this Court expressed its view that it is not inclined to entertain the petition, at that stage, the learned counsel for the petitioner sought time to get instructions and to revert.

*4.Hence, **at the request of the learned counsel for the petitioner, post on 05.09.2024.** However, it is made clear that on the next hearing date, i.e., on 05.09.2024, if the petitioner does not come ready with the cheque amount, the above miscellaneous petition will not be entertained.”*

3.In continuation and conjunction to the earlier order passed by this Court on 22.08.2024, Mr.K.Prasath, learned



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counsel appearing for the petitioner submitted that he is unable to contact the instructing counsel from the Lower Court, hence, seeks a week's time.

4.The learned counsel for respondent submitted that he is ready to dispose of the revision on merits. Learned counsel for the petitioner confirmed the same.

5.In view of the consent given by both counsels, the delay stands condoned and the petition is ordered.

6.Registry is directed to number the Criminal Revision Case, if it is otherwise in order and post the same 'For Admission' on 10.09.2024."

3.In continuation and conjunction to the earlier order passed on 05.09.2024, today, the learned counsel for petitioner/accused submitted that petitioner is not inclined to settle the cheque amount of Rs.34,000/- despite facing conviction by the trial Court and confirmed by the Lower Appellate Court.



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4.The learned counsel for respondent submitted that petitioner by filing this petition, avoiding to undergo conviction sentence of one year.

Hence, sought for a direction to the trial Court to issue conviction warrant.

5.In view of the above, this Court is not inclined to entertain this petition, hence, the Criminal Revision Case is dismissed. The trial Court (Judicial Magistrate No.II, Gobichettipalayam) is directed to take steps for issuing conviction warrant, secure the petitioner/accused to undergo the period of his conviction. Consequently, connected Criminal Miscellaneous Petition is closed.

13.09.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To
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- 1.The III Additional District and Sessions Judge,
Gobichettipalayam.
- 2.The Judicial Magistrate No.II,
Gobichettipalayam.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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