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*Crl.R.C.No.1102 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

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

**Crl.R.C.No.1102 of 2022**

N.Sangeetha

.... Petitioner

Versus

1. Vasantha

2. Kanniammal

3. The Inspector of Police,  
J-3, Guindy Police Station,  
Chennai - 600032.  
(Crime No.5551/2012)

.... Respondents

**Prayer:** The Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C. to set aside the order of dismissal of the condone delay petition passed by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.21071 of 2021 dated 27.04.2022 and pass a direction to the learned Principal Sessions Judge, Chennai, to take the appeal on file.



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For Petitioner : Mr.J.William Shakesphere

For Respondents : Mr.R.Balachandran for R1 & R2  
Mr.S.Vinoth Kumar  
Government Advocate for R3  
(Criminal Side)

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### **ORDER**

This Civil Revision Case has been filed challenging the order of dismissal of the condone delay petition passed by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.21071 of 2021 dated 27.04.2022.

2. The case of the petitioner is that on 15.10.2012, at about 12 Noon, the 1st respondent dumped waste food in the drainage which was objected by the petitioner's grand mother Janaki as it would block the free flow of drainage, but the 1st and 2nd respondents assaulted the petitioner's grand mother Janaki with chappal and broom stick and thereby, caused injuries to her. When it was questioned by the petitioner, they have also assaulted the petitioner with chappals and broomstick and also torn the night dress worn by the petitioner. A complaint was lodged by the grand mother of the



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petitioner Mrs.Janaki and the same was registered by the 3rd respondent police in Crime No.5551 of 2012 for the offences under Sections 323, 326, 355 r/w 109 IPC and after investigation, charge sheet was filed before the IX Metropolitan Magistrate, Saidapet and the same was taken on its file in C.C No.6643 of 2013. After the trial, the case was ended in acquittal. Challenging the same, the petitioner preferred an appeal before the Principal Sessions Judge, Chennai in C.A Sr.No.21671 of 2021 along with a petition in Crl.M.P No.21070 of 2021 to condone the delay of 867 days in filing the appeal and the same was dismissed on 27.04.2022. Challenging the same, the present Civil Revision Case is filed.

3. The learned counsel for the petitioner would submit that though the petitioner has filed a condone delay petition in preferring the appeal against the order of acquittal before the lower appellate Court with the delay of 867 days, and has clearly stated the reasons for the delay in filing the appeal, the lower Appellate Court without considering the same, dismissed the condone delay petition on the ground that the petitioner had failed to explain each and every day delay properly. Hence, he prays to set aside the order of the lower



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4. Per contra, the learned Government Advocate (Criminal Side) appearing for the 3rd respondent would submit that as against the order of acquittal, the accused is enjoying the double presumption in the present case.

5. The petitioner claims that she and her grandmother, who is the defacto complainant were assaulted by the 1st and 2nd respondents with chappal and broomstick and thereby, they sustained injuries. In order to prove the same, the petitioner has failed to examine the doctor who treated them and also failed to produce any wound certificate. Moreover, there is no eye witness to the occurrence. All those issues were properly adjudicated by the trial Court and acquitted the accused. Further, in the present case, the alleged occurrence took place on 15.10.2012. But, the complaint was lodged with the delay of 7 days i.e on 22.10.2012 and the delay of 7 days was not properly explained either in the complaint or in the trial. Further, the case was ended in acquittal on 06.06.2019, whereas the condone delay petition was filed after a lapse of 2-1/2 years (nearly 867 days) and no explanation



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was not offered by the petitioner and thereby, the lower Appellate Court has rightly dismissed the petition which does not call for any interference by this Court and therefore, the present Criminal Revision Case is liable to be dismissed.

6. Accordingly, this Criminal Revision Case is dismissed.

**06.06.2024**

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To

1. The Principal Sessions Judge, Chennai.
2. The Inspector of Police, J-3, Guindy Police Station, Chennai - 600032.
3. The Public Prosecutor, High Court of Madras.



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**M. DHANDAPANI, J.**

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