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Crl.R.C.No.1194 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.1194 of 2024

Sarathkumar

... Petitioner

Vs.

The State Rep by
The Inspector of Police,
V-4, Rajamangalam Police Station,
Villivakkam, Chennai – 600 049.

... Respondent

Prayer : Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, praying to call for the records and set aside the order passed by the learned Principal Sessions Judge, City Civil Court, Chennai in Crl.M.P.No.10161 of 2024 in Crl.A.SR.No.8965 of 2024 dated 13.06.2024.

For Petitioner : Mr.R.Saritha

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case has been filed against the order dated 13.06.2024 made in Crl.M.P.No.10161 of 2024 in Crl.A.SR.No.8965 of 2024 passed by the learned Principal Sessions Judge, City Civil Court, Chennai.

2. The case of the petitioner is that he was prosecuted by the respondent for an offence u/s 392 r/w 34 of IPC before the learned XIII Metropolitan Magistrate, Egmore, Chennai. After due trial, the trial court convicted the petitioner/accused and sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month by order dated 11.12.2023, against which, he preferred an appeal before the learned Principal Sessions Judge, City Civil Court, Chennai with a delay of 66 days in Crl.M.P.No.10161 of 2024 in C.A.SR.No.8965 of 2024 and the said petition was dismissed by the lower appellate court vide impugned order dated 13.06.2024. Challenging the same, the petitioner has filed the present revision before this court.



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3. Learned counsel for the petitioner submitted that, after conviction in the above said C.C., the earlier counsel failed to prefer appeal in time. After enquiry only, the petitioner came to know that no appeal has been filed by the earlier counsel against the order of conviction, thereby, the petitioner has preferred an appeal with a delay of 66 days. However, without considering the same, the lower appellate court dismissed the condone delay petition filed by the petitioner, which is wholly unsustainable. He further submitted that the lower appellate court has to consider the condone delay petition sympathetically in the conviction matters. Further, he submitted that this court may set aside the impugned order and remand the matter back to the lower appellate court for fresh consideration and the lower appellate court may be directed to pass appropriate orders, within the time frame that may be stipulated by this court.

4. On the above contentions, heard the learned Government Advocate (Crl.Side) appearing for the respondent police.

5. Admittedly, the petitioner was prosecuted by the respondent



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for the offence u/s 392 r/w 34 of IPC before the learned XIII Metropolitan Magistrate, Egmore, Chennai and after due trial, the trial court convicted the petitioner vide order dated 11.12.2023, against which, the petitioner preferred an appeal along with delay petition with a delay of 66 days. It is claimed by the petitioner that earlier counsel had failed to prefer the appeal in time and after enquiry only, the petitioner came to know that the above appeal was not filed by the earlier counsel, thereby there is a delay of 66 days. However, the trial court, without considering the reasons stated by the petitioner, had dismissed the delay petition filed by the petitioner, which is wholly unsustainable.

6. In view of the above, the impugned order passed by the learned Principal Sessions Judge, City Civil Court, Chennai in Crl.M.P.No.10161 of 2024 in Crl.A.SR.No.8965 of 2024 dated 13.06.2024 is set aside and the matter is remanded to the lower appellate court. While reconsidering the same, the lower appellate court is directed to condone the delay and number the appeal and thereafter, pass appropriate orders in the appeal as expeditiously as possible.



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7. With the above directions, this Criminal Revision Case is allowed.

16.07.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

- 1.The Principal Sessions Judge, City Civil Court, Chennai.
- 2.The Inspector of Police, V-4, Rajamangalam Police Station, Villivakkam, Chennai – 600 049.
- 3.The Public Prosecutor, Madras High Court, Chennai.



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M.DHANDAPANI, J.

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