



CRL MP(MD) No.14693 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Fourth day of April Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.14693 of 2023
in
CRL A(MD) SR.No.13786 of 2023

LAVANYA

... PETITIONER/REVISION PETITIONER

Vs

P.S.RENGARAJ

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to condone the delay of 458 days occurred in filing the Criminal Revision petition against the order dt. 02.01.2018 in S.T.C No. 351 of 2008 by the Judicial Magistrate, Sankarankovil.

Prayer in CRL A(MD)SR.No.13786/2023 :

To call for records relating to impugned judgment dated 02.01.2018 passed in S.T.C.No.251 of 2008 on the file of Hon'ble Judicial Magistrate, Sankarankovil and set aside the same.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.C.MAHADEVAN, Advocate for the petitioner and of MR.R.J.KARTHICK, Advocate on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to condone the delay of 458 days in filing the Criminal Appeal against the order of acquittal dated 02.01.2018 passed in S.T.C.No.251 of 2008 on the file of the learned Judicial Magistrate, Sankarankovil.



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2.The petitioner preferred a complaint under 138 of Negotiable Instruments Act, against the respondent, before the learned Judicial Magistrate, Sankarankovil, for his alleged act of dishonored cheque issued by him to discharge the debt amount of Rs.6,00,000/- and the same was taken on file in S.T.C.No.251 of 2008 by the learned Judicial Magistrate, Sankarankovil. The learned trial judge after conducting the elaborate trial acquitted the respondent on the ground that there was no legally enforceable debt by passing the impugned order dated 02.01.2018.

3.Challenging the same, the petitioner/complainant in S.T.C.No.251 of 2008 filed this appeal with delay of 458 days. In the affidavit, it is stated that the order copy got misplaced with some other papers at his house and the same could not be traced out. Further, due to COVID-19 lock down and his ill health, he is unable to file this appeal before this Court within time. Hence, he seeks for condonation of delay of 458 days in filing the Criminal Appeal.

4.The learned counsel for the petitioner reiterated the above reasons stated in the affidavit and also further submitted that there is abundant material to prove the case of the petitioner before the trial Court. The issuance of cheque was admitted and hence, he has prima facie case in succeeding the above appeal and hence, in the interest of justice, he requested this Court to condone the delay.

5.The learned counsel for the respondent without filing the counter objected to



condone the delay of 458 days.

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6.This Court perused the record and the reasons stated in the affidavit filed in support of the condone delay petition.

7.The Hon'ble Supreme Court has laid down the following the principle to condone the delay in filing the appeal in the case of N. Balakrishnan v. M. Krishnamurthy, reported in (1998) 7 SCC 123:-

10.The reason for such a different stance is thus:

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11.Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by



approaching the courts. So a lifespan must be fixed for each remedy.

Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae ut sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12.A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *vShakuntala Devi Jain* v. Kuntal Kumari [AIR 1969 SC 575 : (1969) 1 SCR 1006] and *State of W.B. v. Administrator, Howrah Municipality* [(1972) 1 SCC 366 : AIR 1972 SC 749] .



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13.It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.

8.It is the specific case of the petitioner that the order copy got misplaced with some other papers at his house, during the COVID-19 lock down and due to his illness, he is unable to trace the same and file this appeal before this Court within time. The said reasons are bona fide and the respondent has not adduced any contra evidence. This Court finds no willful negligence on the part of the petitioner in filing



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this appeal with the delay. Therefore, this Court satisfies with the above bona fide reasons and condones the delay in filing the above appeal in order to render the decision on merits.

9. In view of the special circumstances of the case, this Court inclined to condone the delay with imposing the cost of Rs.5,000/- (Rupees Five Thousand Only) to the respondent within a period of two weeks from the date of receipt of a copy of this order, failing which, this petition stands dismissed automatically without further reference to this Court.

10. Accordingly, this petition is allowed. List this case on 30.04.2024 for "reporting compliance".

sd/-
04/04/2024

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/04/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsg

TO

1 THE JUDICIAL MAGISTRATE, SANKARANKOVIL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.



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CRL MP(MD) No.14693 of 2023

ORDER

IN

CRL MP(MD) No.14693 of 2023

in

CRL A(MD) SR.No.13786 of 2023

Date :04/04/2024

RS/GS/SAR-(24.04.2024) 7P 3C

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