



Crl.R.C.No.1134 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1134 of 2023

M/s.Tanfac Industries Ltd.,
Rep.by the Authorized Signatory
S.Sakthi Priyan,
1st Floor, 66, Sir C.P.Ramaswamy Road,
Alwarpet, Chennai – 600 018.

... Petitioner

..VS..

1. The State Rep.by
Inspector of Police,
Central Crime Branch,
Vepery, Chennai.
2. M/s.Siddarth Chemical Corporation,
Rep.by its Managing Partner,
Mr.S.Kamalakar, No.45-A, Barnaby Road,
1st Floor, Kilpauk, Chennai – 600 010.
3. S.Kamalakar
4. Ajit Sivan

... Respondents

Criminal Revision Case filed under Sections 397 read with 401
Cr.P.C., to set aside the dismissal order passed by the learned Principal



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Sessions Judge at Chennai in Crl.M.P.No.295 of 2023 in C.A.Sr.No.26756 of 2022 on 13.03.2023 and further direct the learned Principal Sessions Judge to condone the delay of 1197 days and to dispose of the Criminal Appeal on merits.

For Petitioner : Mr.M.C.Swamy

For Respondents : Mr.S.Sugendran

Additional Public Prosecutor for R1

Mr.G.Ravikumar for R3 and R4

ORDER

The petitioner has filed the present revision petition against the order dated 13.03.2023 passed by the Principal Sessions Judge at Chennai in Crl.M.P.No.295 of 2023 in C.A.Sr.No.26756 of 2022 and consequently, to direct the Principal Sessions Judge to condone the delay of 1197 days and to dispose of the Criminal Appeal on merits.

2. Learned counsel for the petitioner submitted that the petitioner-Company is the *de-facto* complainant and based on the complaint given by the petitioner, a case in C.C.No.16396 of 2003 was registered against the respondents 2 to 3 herein/accused 1 to 3. After fullfledged trial, the



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trial Court acquitted the accused persons on 03.09.2019 during the peak of the Covid-19 Pandemic. The petitioner-Company was not aware of the disposal of the above case immediately. Though the parties were conducting proceedings before this Court in C.S.No.129 of 2002 and O.S.A.No.272 to 275 of 2019, the judgment of acquittal dated 03.09.2019 came to the knowledge of the petitioner and at that time, it was the Covid-19 pandemic period. He further submitted that since the case in C.C.No.16393 of 2003 is a clear case of cheating evidence by documents, the petitioner-Company was on the impression that the Police might have taken an appeal against the acquittal, however, the prosecution failed to file an appeal and the petitioner, as an aggrieved party, preferred the appeal with delay after getting legal opinion from the counsel. Therefore, the delay in filing the appeal is neither wilful nor wanton.

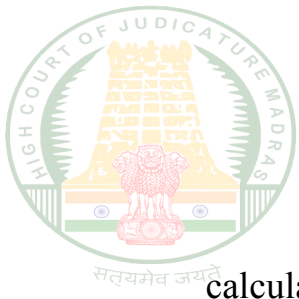
3. Learned counsel for the petitioner further submitted that during the Pandemic period, the Hon'ble Apex Court has granted exemption for initiating legal proceedings. However, the learned Sessions Judge



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failed to consider the exemption granted by the Hon'ble Apex Court and

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calculated the entire period of delay, including the Pandemic period and dismissed the petition.

4. Learned counsel appearing for respondents 3 and 4 submitted that the petitioner-Company has no *locus standi* to file an appeal against the order of acquittal. The appellate jurisdiction to file appeal against the acquittal, vests with the first respondent-Police only, as the cognizance of offences was taken by the trial Court on the basis of the charge-sheet filed by first respondent-Police. He further submitted that the judgment of acquittal was delivered on 03.09.2019 and appeal against the said judgment ought to have been filed on or before 02.10.2019. However, the petitioner-Company failed to file the appeal in time. Later, taking advantage of the Pandemic situation, they filed the appeal with delay of 1197 days and also they have not given any valid reason for filing the petition with delay and hence, this revision has to be dismissed.

5. Heard the learned counsel on either side and perused the materials available on record.

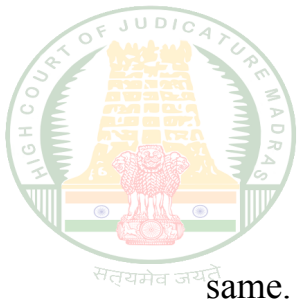


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6. Admittedly, the petitioner was examined as P.W.1 in C.C.No.16396 of 2013 and after full-fledged trial, the said case ended in acquittal on 03.09.2019. Challenging the said judgment of acquittal, the prosecution has not filed any appeal, however, as an aggrieved party, the petitioner-*de-facto* complainant has filed the appeal with delay of 1197 days, which was dismissed by the Court below.

7. On a perusal of the entire records, it is seen that the judgment of acquittal was delivered prior to Pandemic situation i.e., on 03.09.2019. As per the Limitation Act, the appeal ought to have been filed within 30 days from the date of delivery of the judgment i.e., on 02.10.2019. No doubt, the judgment dated 03.09.2019 has been pronounced even before the date on which, the Hon'ble Supreme Court of India has given exemption to the parties in filing the cases before the Courts. The exemption has been given for the period from 05.03.2020 till 28.02.2022. As per the defence, the petitioner had sufficient time to file the appeal even before and after the exemption period, but he has not availed the



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same. However, it is seen from the records that there are no materials to show that the petitioner-*de-facto* complainant was very much available at the time of delivering the judgment i.e., on 03.09.2019 and he had not taken immediate steps for filing appeal against the judgment of acquittal.

8. In the instant case, the cognizance was taken on the basis of the charge-sheet filed by the first respondent-Police. Normally, in criminal cases, the *de-facto* complainant only depends on the prosecution and as a lay-man, he may not be aware of proceedings of the case, when the prosecution proceeded with the case. In this case, as against the judgment of acquittal, the prosecution has not filed any appeal, however, the petitioner, as an aggrieved party filed, the appeal with delay and certainly, it will take time to get the legal opinion and to file the appeal by the *de-facto* complainant. Further, the main defence taken by the learned counsel for the petitioner that after filing the appeal with delay, they have filed the additional affidavit, but the learned Sessions Judge failed to receive the same, however, in the order the learned Sessions Judge mentioned about the additional affidavit.



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9. In the light of the above facts and the grievance expressed by the petitioner, in the considered opinion of this Court, the order dated 13.03.2023 passed in Crl.M.P.No.295 of 2023 in Crl.A.Sr.No.26756 of 2022 is liable to be set aside. Accordingly, it is set aside and the matter is remitted back to the learned Principal Sessions Judge, Chennai for fresh consideration. The learned Principal Sessions Judge, is directed to take the additional affidavit on file, which was already filed by the petitioner and proceed with the case and dispose of the matter, on merits and in accordance with law, and if necessity arises, take evidence.

10, With the above observations and directions, this Criminal Revision Petition is disposed of.

11.03.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Case Citation : Yes / No
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To

1. The Principal Sessions Judge,
Chennai.
2. The Inspector of Police,
Central Crime Branch,
Vepery, Chennai.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.

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