



Crl.R.C.No.1361 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.1361 of 2023
and Crl.M.P.No.11328 of 2023

D.Palani

... Petitioner

Vs

Centre of Children's Film for Education,
Represented By Its Authorised Chairman
And Producer,
S.Gunasekaran,
No.296, Phase-II,
TNHB, Tiruppatur,
Tiruppattur District – 635601.

... Respondent

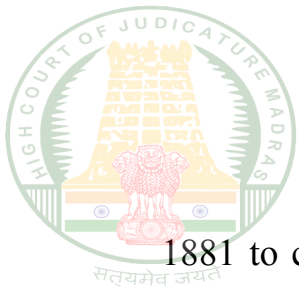
PRAYER: Criminal Revision Case is filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order dated 03.07.2023 in CMP.14100 of 2022 CNR.No.TNVL1C-016187-2022 on the file of the Judicial Magistrate No.I, Tiruppatur, Tiruppattur District.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.T.R.Ravi

ORDER

This Criminal Revision has been filed challenging the order dated 03.07.2023 in CMP.14100 of 2022 CNR.No.TNVL1C-016187-2022 on the file of the Judicial Magistrate No.I, Tiruppatur, Tiruppattur District, thereby allowing the petition filed under Section 142(b) of Negotiable Instruments Act,



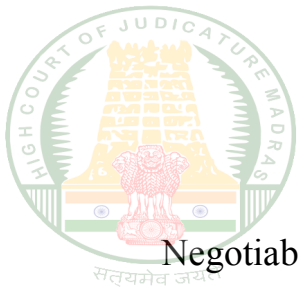
Crl.R.C.No.1361 of 2023

1881 to condone the delay of 1391 days in filing the complaint under Section 138 of Negotiable Instruments Act.

2. Heard the learned counsel appearing on either side and perused the materials placed on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act alleging that the petitioner issued a cheque in order to repay the loan amount to the tune of Rs.2,25,000/-. It was presented for collection. However, it was returned dishonoured for the reason “Insufficient funds”. After causing statutory notice, the respondent lodged a complaint. However, the respondent filed a complaint without completion of 15 days after causing statutory notice as contemplated under Section 138 of Negotiable Instruments Act.

4. Therefore, the petitioner filed quash petitions before this Court in Crl.O.P.No.16252 and 16254 of 2019. This Court, by an order dated 27.10.2022, allowed the quash petitions and the respondent was given liberty to lodge a fresh complaint by invoking the provisions under Section 142(b) of the



Crl.R.C.No.1361 of 2023

Negotiable Instruments Act. Accordingly, the respondent lodged a fresh complaint with a delay of 1391 days. The Trial Court, allowed the petition by relying upon the Judgment of the Hon'ble Supreme Court of India in the case of ***Yogendra Pratap Singh Vs Savitri Pandey and another in Crl.A.No.605 of 2012 dated 19.09.2014***. Aggrieved by the same, the present revision.

5. The learned counsel for the petitioner would submit that the case cited by the Trial Court is not at all applicable to the case on hand. As per the directions issued by the Hon'ble Supreme of India, cognizance of the complaint cannot be taken for the offence punishable under Section 138 of Negotiable Instruments Act which is filed before expiry of 15 days as stipulated in the statutory notice. Therefore, the payee or the holder in due course of the cheque may file a fresh complaint, within one month from the date of decision in the said Judgment and in that event, delay in filing the complaint will be treated as having been condoned under the proviso to clause (b) of Section 142 of the Negotiable Instruments Act. Therefore, the condone delay petition cannot be allowed automatically on the strength of the above said Judgment. The Judgment of the Hon'ble Supreme Court of India is not at all applicable to the case on hand.



WEB COPY

6. A perusal of the Judgment of the Hon'ble Supreme Court of India in the case of *Yogendra Pratap Singh Vs Savitri Pandey and another in Crl.A.No.605 of 2012 dated 19.09.2014*, revealed that the complaint filed before expiry of 15 days from the date of receipt of the notice issued under clause (c) of the proviso to Section 138 of Negotiable Instruments Act is not maintainable, the complainant cannot be permitted to present the very same complaint at any later stage. His remedy is only to file a fresh complaint and the same could not be filed within the time prescribed under Section 142(b), his recourse is to seek the benefit of the proviso, satisfying the court of sufficient cause.

7. Admittedly, the petitioner filed a quash petition as against the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act, on the ground that the complaint itself is pre-matured one, since no cause of action arise to lodge a complaint for the offence punishable under Section 138 of Negotiable Instruments Act in Crl.O.P.No.16252 and 16254 of 2019. It was allowed on 27.10.2022. Immediately, the respondent lodged a fresh complaint with a condone delay by invoking provisions under Section 142(b) of the Negotiable Instruments Act.



Crl.R.C.No.1361 of 2023

8. Considering the nature of the delay, the Trial Court had rightly allowed the petition and this Court finds no infirmity or illegality in the order dated 03.07.2023 in CMP.14100 of 2022 CNR.No.TNVL1C-016187-2022 on the file of the Judicial Magistrate No.I, Tiruppatur, Tiruppattur District. The Trial Court is directed to proceed with the trial and complete the same, within a period of six months from the date of receipt of a copy of this order.

9. Accordingly, the Criminal Revision Case stands dismissed. Consequently, connected Miscellaneous petition is closed.

05.08.2025
($\frac{1}{2}$)

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn



WEB COPY



Crl.R.C.No.1361 of 2023

G.K.ILANTHIRAIYAN. J.

mn

To

The Judicial Magistrate No.I,
Tiruppatur, Tiruppattur District.

Crl.R.C.No.1361 of 2023

05.08.2025