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CRL RC No. 1913 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 1913 of 2025

AND

CRL MP NO. 18467 OF 2025

Xavier Stephen
S/o.Lourdhusamy,
No.108, Christ Colony,
Koilpathagai, Avadi,
Chennai - 600054.

..Petitioner(s)

Vs

N.V.Selvam
S/o. Veeraiyan,
No.11, Addison Nagar,
Mangadu, Chennai - 600056.

..Respondent(s)

CRL RC No. 1913 of 2025

To set aside the order passed in Crl.MP.No.4556/2018 in
STC.No.396/2017 dated 27.02.2025 on the file of Fast Track Court,
(Magisterial level) at Poonamallee and dismiss the petition throughout as it is
barred by limitation.

For Petitioner(s): Mr. S.Aswin Karthikeyan

For Respondent(s): Mr.M.Vigneshwaran



Order

This Criminal Revision Petition has been filed challenging the order passed by learned Fast Track Court (Magisterial Level), Poonamallee in Crl.M.P.No.4556 of 2018 in S.T.C.No. 396 of 2017 dated 27.02.2025 condoning the delay in filing the complaint filed under Sec.138 of Negotiable Instruments Act.

2. This Criminal Revision Case arises under the following circumstances:-

(a) The petitioner is an accused facing prosecution under Sec.138 of Negotiable Instruments Act

(b) The respondent herein filed a complaint under Sec.138 of Negotiable Instruments Act with the delay of 7 days. However, he had not filed the petition to condone the delay while filing the complaint.

(c) The petitioner raised an objection and thereafter, the respondent filed a petition to condone the delay during the course of trial. The said petition was dismissed by the learned Magistrate by observing that it has no jurisdiction to entertain the petition to condone the delay after taking cognizance.

(d) The respondent herein had challenged the said order before this court in Crl.R.C.No. 20 of 2024 and this court by an order dated 28.06.2024 had observed, after referring to various case laws, referred by the respondent and the petitioner that a petition for condonation of delay



would be maintainable even after taking cognizance and set aside the order dismissing the condone delay petition and remanded the petition for fresh consideration to decide whether the respondent had shown sufficient cause for condonation of delay.

(e) The learned Magistrate after the petition was remanded back for fresh consideration, had allowed the respondent's application for condonation of delay by holding that sufficient cause has been shown by the respondent for the delay in filing the complaint. Against that order, the petitioner had filed this Criminal Revision Case.

3. The learned counsel for petitioner would submit that the earlier order passed by this court in Crl.R.C.No.20 of 2024 cannot operate as resjudicata; that since the provision is very clear that cognizance cannot be taken unless the delay is condoned, the subsequent filing of the petition cannot cure the defect and relied upon the judgment of Hon'ble Supreme Court of India in ***H.S.Oberoi Buildtech Pvt. Ltd. And others vs. M/s.MSN Woodtech in Crl.Appeal No.... Of 2025 (arising out of SLP (Crl.) No. 2002/2025)***, wherein the Supreme Court held the cognizance to be bad, since it was taken after the limitation period without a petition filed for condoning the delay. He has also relied upon the following judgments :-

(a) Reported in ***2008 (13) SCC 689*** in the case of ***Subodh S.Salaskar vs. Jayaprakash M. Shah and another***

(b) In ***Crl. O.P.No. 26052 of 2018*** in the case of ***M/s.Career and***



***Career Edu. Services Pvt. Ltd. And another vs. Ganadipathy
Tulsi's Jain Engg. College***

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(c) Reported in ***2022 SCC Online All 845*** in the case of ***Shiv***

Narain Gupta vs. State of U.P. and another

4. The learned counsel for respondent, per contra, submitted that the very same issue was decided by this court in Crl.R.C.No.20 of 2024; that the petitioner cannot re-agitate the issue; that the petitioner by filing this Revision is asking this court to sit in appeal over the observation made by this Court in Crl.R.C.No. 20 of 2024; that this court had directed the learned Magistrate only to consider whether sufficient cause was shown for the delay as the question of maintainability of the petition was already decided by this court.

5. Admittedly, in a Criminal Revision filed by the respondent before this court in Crl.R.C.No.20 of 2024, this court had set aside the order dismissing the condone delay petition on the ground that the Magistrate was well within the jurisdiction to entertain the condone delay petition even after taking cognizance and had directed the Magistrate to decide the same on merits. It is also seen that this Court in ***G.Venkatesan and others vs. Kamala reported in 2015 (3) MWN (Cr.) DCC 85 (Mad.)*** and in ***Nataraj @ T.Natarajan vs. P.Venkatachalam reported in 2008 (1) CTC 503***, had observed that the condone delay petition filed belatedly after taking cognizance can be entertained. In fact, in the order passed in Crl.R.C.No.20 of 2024, this Court had referred those two judgments. Since there is a specific observation by this court



in a case between very same parties that the condone delay petition is maintainable, this Court cannot sit in judgment over the finding and observations. This Court has specifically directed the learned Magistrate only to examine whether sufficient cause has been shown for the delay. The learned Magistrate in the impugned order has found that sufficient cause was shown for the delay.

6. The judgments relied upon by the learned counsel for the petitioner only suggest that cognizance taken after the period of limitation without condonation of delay petition cannot be sustained. Those judgments do not deal with the issue in hand. As stated earlier in Crl.R.C.No.20 of 2024 between the same parties, this Court has specifically held that the petition to condone the delay can be filed even after taking cognizance. The petitioner has not challenged the said findings.

7. Therefore, this Court does not find any infirmity in the order passed by the learned Fast Track Court (Magisterial Level) at Poonamallee in Crl.M.P.No.4556 of 2018. Hence, this Court is not inclined to entertain this Criminal Revision Case. Accordingly, this Criminal Revision Case is dismissed.

11-12-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

Fast Track Court (Magisterial Level), Poonamallee.



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SUNDER MOHAN J.

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