



Crl.R.C.No.1995 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.07.2025

CORAM:

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

Crl.R.C.No.1995 of 2024

S.Maheswaran

Rep. by his Power of Attorney

S.Rajenikanth

... Petitioner

Vs.

S.Sanjay

... Respondent

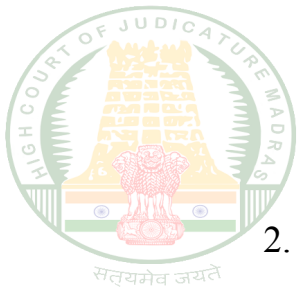
PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order passed by the learned Fast Track-II, Magistrate, Allikulam, Egmore, Chennai in Crl.M.P.No.31697 of 2024 on 10.09.2024.

For Petitioner : Mr.V.Ramamurthy

For Respondent : Mr.P.Venkatraman

ORDER

This Criminal Revision Cases has been preferred against the order dated 10.09.2024 passed by the learned Metropolitan Magistrate, Fast Track-II, Allikulam, Egmore, Chennai, in Crl.M.P.No.31697 of 2024, thereby dismissing the petition to condone the delay of 376 days in filing the complaint.



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2. Originally, the petitioner filed a complaint through the power holder for the offence punishable under Section 138 of the Negotiable Instruments Act as against the respondent and the same was taken cognizance in S.T.C.No.2604 of 2023 on the file of the XXV Metropolitan Magistrate, Egmore, Chennai. The respondent challenged the said complaint before this Court in Crl.O.P.No.19141 of 2023 on the ground that the power holder did not have any knowledge about the transactions between the principal and the respondent and also issuance of cheque. Therefore, this Court by an order dated 30.11.2023, quashed the complaint in S.T.C.No.2604 of 2023 on the file of the learned XXV Metropolitan Magistrate, Egmore, Chennai, on the ground that the power holder must have prior knowledge about the transactions to file the complaint and when the complaint is silent about the knowledge of the transactions, the said fact cannot be introduced at the later point of time either through the power of attorney or through principal. However, this Court had given liberty to the petitioner to file fresh complaint and if any delay, it can be condoned. It is open to the respondent herein to resort to such action if law permits.

3. Accordingly, the petitioner filed the present complaint through power of attorney along with the petition to condone the delay of 376 days in



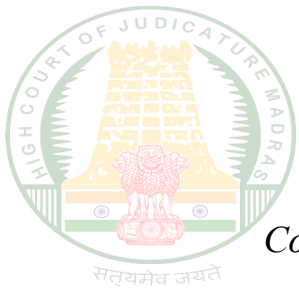
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filing the complaint. However it was dismissed on the ground that the petitioner failed to state any reason for the delay of 376 days. Further the contention avert in the petition is not mentioned in the order passed by this Court and the petitioner also failed to submit any document in support of his contention. Aggrieved by the same, the petitioner filed the present revision.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of the records, it is revealed that while quashing the earlier complaint in S.T.C.No.2604 of 2023 on the file of the learned XXV Metropolitan Magistrate, Egmore, Chennai, this Court by an order dated 30.11.2023, in Crl.O.P.No.19141 of 2023 has observed as follows :-

“8. The aforesaid dictum of Supreme Court laid that the power agent must have prior knowledge of the transaction to file the complaint, in this case when the complaint is silent about the knowledge of the transaction, the said fact cannot be introduced at the later point of time either through the Power of Attorney or through Principal. Since there is an inherent defect in the complaint in respect of the locus of the agent to lay the complaint, this Court is inclined to allow the petition. Hence this Criminal Original Petition is allowed.



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Consequently, the connected Criminal Miscellaneous Petitions are closed. Criminal complaint in S.T.C.No.2604 of 2023 on the file of the learned XXV Metropolitan Magistrate at Egmore, Chennai stands quashed.

9. The learned counsel for the respondent states that since the holder of the cheque was in abroad, the complaint was filed through the power agent who is none other than his brother and if the said complaint through Power of Attorney is not sustainable in the eye of law, the holder of the cheque may be permitted to file a fresh complaint and the delay in filing the complaint may be condoned. It is open to the respondent herein to resort to such action if law permits and if the trial Court is satisfied regarding the reason for delay may condone delay and entertain the complaint.”

Thus it is clear that the petitioner was given liberty to file fresh complaint with condone delay petition and the trial Court was specifically directed to condone the delay.

6. Further on perusal of the complaint filed by the petitioner, it is revealed that the power of attorney has personal knowledge about the transactions between his principal and the respondent herein. He has also handled the transactions and communications between them. He is well aware about the transactions between the principle and the respondent and he



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personally knowledgeable with the subject loan and the cheque transactions right from its inception. Therefore, the trial Court ought not to have dismissed the condone delay petition. Hence, the impugned order cannot be sustained and is liable to be set aside.

7. In view of the above discussions, the order dated 10.09.2024 passed by the learned Metropolitan Magistrate, Fast Track-II, Allikulam, Egmore, Chennai, in Crl.M.P.No.31697 of 2024 is hereby set aside and the delay is condoned. The trial Court is directed to take cognizance and proceed with the complaint after issuance of summons to the respondent herein.

8. Accordingly, the Criminal Revision Case stands allowed.

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

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G.K.ILANTHIRAIYAN. J.

rts

To

The Metropolitan Magistrate,
Fast Track-II, Allikulam,
Egmore, Chennai,

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