



Crl.R.C.No.2403 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

C O R A M

THE HONOURABLE Mr.JUSTICE **SUNDER MOHAN**

Crl.R.C.No.2403 of 2024

1.S.Sarath Kumar
2.Vijay
3.M.Sarath Kumar

... Petitioners/Accused 3, 4 & 12

Vs

State rep. by its
Inspector of Police,
G-1, Vepery Police Station,
Chennai – 7.
(Crime No.648 of 2012)

... Respondent

PRAYER: Criminal Revision Case filed under Sections 438 & 442 of BNSS praying to call for the records made in Crl.M.P.No.26397 of 2024 in C.C.No.1718 of 2013 dated 20.11.2024 on the file of Principal Court of Sessions, Chennai and set aside the same.

For petitioners ... Mr.R.Sankarasubbu

For respondent ... Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

ORDER

The revision challenges the dismissal of the petitioners' application for condonation of delay of 1544 days in filing the appeal against the conviction in C.C.No.1718 of 2013 dated 09.03.2020 passed by the learned Chief Metropolitan Magistrate, Egmore, Chennai.



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2.The petitioners were convicted for the offences under Sections 147, 148, 336 of I.P.C. and Section 3(1) of TNPPDL Act r/w 149 of I.P.C. and sentenced to an imprisonment of one year for offence under Section 3(1) of TNPPDL Act and directed to pay fine for the other offences. The sentence imposed on the petitioners was suspended by the trial Court for a period of one month. However, the petitioners, who were arrayed as A3, A4 and A12, had not preferred appeal on time. They preferred the appeal with a delay of 1544 days along with the condonation petition in Crl.M.P.No.26397 of 2024, which was dismissed by the learned Principal Sessions Judge, Chennai, on the ground that sufficient cause was not shown for preferring the appeal within time.

3.Mr.R.Sankarasubbu, learned counsel for petitioners would submit that the petitioners were tried along with several other accused; that they were under the impression that the appeal was filed on their behalf by one of the co-accused and therefore, non filing of the appeal within time is neither willful nor wanton; and that the appeal against conviction is a statutory right of the accused and therefore it cannot be denied merely because of the delay.



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4.The learned Government Advocate (Crl. Side) per contra submitted that after the sentence was suspended by the trial Court, the petitioners had not preferred any appeal; that they could not be traced and therefore the impugned order passed by the learned Principal Sessions Judge does not warrant any interference and prayed for dismissal of the revision.

5.This Court is of the view that the right to file an appeal against conviction cannot be denied merely because there is a delay in filing the appeal. Therefore, this Court is of the view that the learned Judge ought not to have dismissed the petition to condone the delay in filing the appeal. However, it is needless to say that the discretion is vested with the learned Principal Sessions Judge insofar as the suspension of sentence is concerned.

6.Therefore, the impugned order passed by the learned Principal Session Judge, Chennai in Crl.M.P.No.26397 of 2024 in C.C.No.1718 of 2013 dated 20.11.2024 is set aside, the delay is condoned and the appeal is directed to be heard on merits.



CrI.R.C.No.2403 of 2024

7. With the above observations, the Criminal Revision Case is allowed.

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02.01.2025

Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No
rsi

To

1. The Principal Session Judge,
City Civil Court,
Chennai.

2. The Inspector of Police,
G-1, Vepery Police Station,
Chennai – 7.

3. The Public Prosecutor,
Madras High Court.



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Crl.R.C.No.2403 of 2024

SUNDER MOHAN, J

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Crl.R.C.No.2403 of 2024

02.01.2025