



Crl.R.C(MD)No.399 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2025**

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C(MD)No.399 of 2025

Muthukumar

... Petitioner

Vs.

Mariappan

... Respondent

Prayer : Criminal Revision Case is filed under Section 397 & 401 of the Code of Criminal Procedure, to call for the records from the lower Court and duly set aside the order passed by the Learned Principal Sessions Judge, Tirunelveli District in Crl.M.P.No.15013 of 2023 in Unregistered Criminal Revision dated 02.01.2025 and thereby condone the delay of 147 days in filing the criminal revision and consequently, direct the learned Principal Sessions Judge, Tirunelveli District to number the criminal revision and decide the same on merits in manner known to law.

For Petitioner : Mr.R.Muthuram

For Respondent : Mr.P.P.Alwin Balan



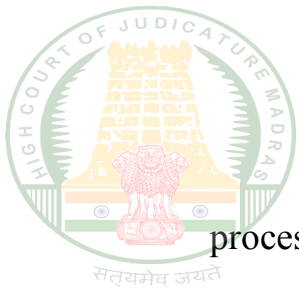
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ORDER

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Challenging the order passed by the learned Principal Sessions Judge, Tirunelveli in Cr.M.P.No.15013 of 2023 in unnumbered criminal revision, dated 02.01.2025, this criminal revision case has been filed.

2. Cr.M.P.No.15013 of 2023 was filed by the petitioner herein under Section 5 of the Limitation Act to condone the delay of 147 days in filing the revision against the order passed by the learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli in S.T.C.No.286 of 2019, dated 29.11.2022. The petitioner filed a revision before the learned Principal Sessions Judge, Tirunelveli to set aside the order passed by the learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli in S.T.C.No.286 of 2019, dated 29.11.2022. The claim of the petitioner is that the counsel who appeared on behalf of the petitioner in Trial Court owing to his ill health, failed to pay the process fee for the issuance of bailable warrant against the accused. It is only after when the petitioner contacted his counsel, he understood that the complaint in S.T.C.No.286 of 2019 was dismissed for non-payment of



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process fee by the petitioner. In view of the same, a delay of 147 days had occurred in filing the revision and sought for condoning the said delay. However, the learned Principal Sessions Judge in an elaborate order, refused to condone the delay and dismissed the said Miscellaneous Petition. Challenging the same, the petitioner has filed this criminal revision case.

3. The learned counsel for the petitioner submitted that the petitioner had conducted the case diligently before the learned Judicial Magistrate in S.T.C.No.286 of 2019. At the first instance, when the learned Trial Court directed to pay process fee, batta was duly paid and bailable warrant was also issued as against the respondent herein, by which time, the police had returned the bailable warrant on the premise that the address is wrongly mentioned in the process. In the interregnum, due to pandemic, the case was adjourned from time to time without any progress and post pandemic, once again the case was posted for payment of process fee for issuing bailable warrant as against the respondent herein. Since the case was adjourned from time to time during pandemic, the petitioner did not contact the counsel on record and since the counsel on record failed to appear before the Trial Court by duly paying the batta



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after getting instruction from the petitioner, the learned Trial Court had dismissed the case. Even after dismissal, the Trial Court counsel failed to intimate the same to the petitioner and only when the petitioner voluntarily contacted him, the dismissal of S.T.C.No.286 of 2019 was informed by the counsel on record and hence, by that time, 147 days had elapsed and immediately the petitioner had taken steps by filing the revision petition before the learned Principal Sessions Judge. However, without considering these facts, the learned Principal Sessions Judge had dismissed the condone delay petition. The total cheque amount is for an amount of Rs.1,30,000/- and the petitioner has a good case to be contested before the learned Trial Court and pressed for allowing the criminal revision case.

4. Per contra, the learned counsel appearing for the respondent categorically submitted that it has become a tactics of litigants seeking condonation of delay to thrust the responsibility for the delay upon the counsel concerned. Even in this case, though the petitioner had fully taken the stand that the delay of 147 days has been caused only exclusively because of the inadvertence of the counsel concerned and because of the ill-health of the counsel concerned, no document which



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could substantiate the said factum had been submitted before the Principal Sessions Judge. The Hon'ble Supreme Court has taken a serious view of the tendency of litigants to attribute fault to their respective counsel in the case of Rajneesh Kumar & Another Vs. Ved Prakash in S.L.P(Civil)Nos.935 & 936 of 2021, wherein it had categorically held that the attitude of the litigants throwing the entire blame on the head of the Advocates should not be encouraged. It is not only the responsibility of the Advocates concerned, but it is the responsibility of the litigants as well to conduct the cases diligently before the respective Courts and the entire blame cannot be thrown on the Advocates concerned and the litigants should not be allowed to disown the responsibility, exclusively by putting the blame on the Lawyers. Relying upon the said judgment, the learned counsel further submitted that in terms of Section 204 (4) of Cr.P.C, the dismissal of a complaint filed under Section 200 of Cr.P.C for non-payment of process fee would amount to acquittal of the case and hence, allowing the revision case would cause undue hardship and inconvenience to the respondent herein and pressed for dismissal of the criminal revision case.



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5. Immediately, the learned counsel for the petitioner categorically contended that the dismissal of a complaint by the Magistrate under Section 204(4) of Cr.P.C will not amount to acquittal of the accused concerned and the same has been dealt with by the Hon'ble Kerala High Court in a case reported in **2007 Crl.L.J.1143 (Tom Thomas Vs. Abdul Lathief E. & Another)**. Pointing out the said judgment of the Hon'ble Kerala High Court, the learned counsel for the petitioner submitted that when there is a specific provision to dismiss a complaint for non-payment of process fee etc., such an order cannot be treated as an order of acquittal. Had the legislature intended that such order will also amount to an order of acquittal, coming within the purview of Section 378 of the Code, there was absolutely no difficulty in using the word “acquit” instead of “dismiss” in Section 204(4) of Cr.P.C. In the absence of the word “acquittal”, interpretation should not be given to the word “dismissal” as “acquittal” and such an exercise is unwarranted and the argument of the learned counsel for the respondent is highly unsustainable and pressed for allowing the revision case.



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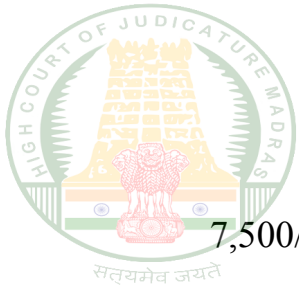
6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and pressed for allowing the materials available on record.

7. A careful perusal of the materials in record would reveal that even without going into the merits of the case, the learned Trial Court had dismissed the complaint *in limine* for failing to pay the batta which is contrary to the proposition laid down by this Court time and again and also by the Hon'ble Supreme Court, more particularly in the case of ***K.S.Panduranga Vs. State of Karnataka*** reported in ***2013 (3) SCC 721***. Admittedly, the Trial Court had dismissed the complaint for not taking steps to pay batta for executing the bailable warrant against the accused. Admittedly, the complainant has also not paid the process fee or summon batta to execute a warrant against the accused in the private complaint filed by him. No doubt non-payment of process fee would give way for the complaint filed by the complainant to be dismissed as contemplated under Section 204(4) of Cr.P.C. However, this Court is of the considered opinion that the Trial Court ought to have given one more opportunity for the petitioner for payment of process fee or summon batta and should have gone into the merits of the case. It is also brought to the notice of



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this Court by the learned counsel for the petitioner that already process fee was paid in an earlier instance and the police themselves without able to track the address of the respondent, had returned the batta for want of correct address. Only under such circumstances, the case was adjourned time and again for at least one and half years during pandemic. Only post pandemic, there was a miscommunication between the Lawyer and the petitioner concerned. Strictly warning the petitioner to conduct the case without any lapse in future, this Court is of the considered view that the dismissal under Section 204(4) of Cr.P.C cannot be interpreted as acquittal as the learned counsel for the respondent had submitted. On the other hand, this Court finds it necessary to interfere with the impugned order passed by the learned Principal Sessions Judge by setting aside the said order refusing to condone the delay of 147 days in filing revision against the order passed by the learned Judicial Magistrate in S.T.C.No. 286 of 2019, dated 29.11.2022. Accordingly setting aside the impugned order in Cr.M.P.No.15013 of 2023, dated 02.01.2025 with a strict direction to the petitioner to conduct the case diligently without dragging of the same, this criminal revision case is allowed. The learned Principal Sessions Judge, Tirunelveli is directed to number the revision petition filed by the petitioner. The petitioner is directed to pay a cost of Rs.



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7,500/- to the respondent within a period of one week from the date of

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receipt of copy of this order and file cost memo before the learned

Principal Sessions Judge for numbering the criminal revision petition.

8. With the above directions, this Criminal Revision Case is allowed.

26.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Principal Sessions Judge,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI ,J.

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Order made in
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