



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.12.2025**

CORAM:

THE HONOURABLE MR JUSTICE MOHAMMED SHAFFIQ

CRL.RC(MD)NO.1084 OF 2025

and

CRL.M.P(MD)No.10895 of 2025

P.Suresh Kumar : Petitioner/Respondent/Accused

.VS.

Vinoth Kumar :Respondent/Petitioner/Complainant

PRAYER: Criminal Revision Case filed under Section 438 r/w Section 442 of BNSS to call for the records and set aside the order made in Crl.M.P.No.1200 of 2024 in STC.No. Unnumbered of 2025, dated 21.7.2025, on the file of learned Judicial Magistrate(FAC), Fast Track Court, Nagercoil, Kanyakumari District

For Petitioner :Mr.J.Jeevin

For Respondent :Mr.S.Vashik Ali,
For Mr.R.Murugan

O R D E R

Criminal Revision Case is filed challenging the order of Judicial Magistrate(FAC), Fast Track Court, Nagercoil, Kanyakumari District in Crl.M.P.No.1200 of 2024 in STC.No. Unnumbered of 2025, dated 21.07.2025 insofar as Judicial



Magistrate condoned the delay of 10 days in filing the complaint by respondent by exercising the power under Section 142(1)(b) of the Negotiable Instruments Act.

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

3. The only ground on which the present Criminal Revision Case is filed is that the Petition to condone the delay did not contain reference to Section 142(1)(b) of the Negotiable Instruments Act, instead reference was made to Section 5 of the Limitation Act and Section 151 of Civil Procedure Code.

4. Learned counsel for petitioner would submit that power to condone delay in filing complaint under Negotiable Instruments Act is under Section 142(1)(b) of Negotiable Instruments Act. Petition being filed without reference to Section 142(1)(b) of Negotiable Instruments Act, instead invoking Section 5 of Limitation Act r/w Section 107 of CPC, ought to have been rejected.

5. To the contrary, the learned counsel for Petitioner would submit that proviso to Section 142(1)(b) of Negotiable Instruments Act confers discretion on the Court to take cognizance of



6. Having considered the submissions made by both sides, this court finds that this revision lacks merit for two reasons,



(i) Both under Section 5 of Limitation Act and proviso to Section 142(1)(b) of Negotiable Instruments Act, consideration for condoning delay is whether sufficient cause is shown for the delay in filing an appeal or application or complaint within the stipulated period; and

(ii) Misquoting of provision by itself may not prove fatal. Moreso, when in this case, Judicial Magistrate has rightly invoked Section 142(1)(b) of Negotiable Instruments Act, which confers on him discretion to condone delay in filing complaint beyond the period stipulated, if he is satisfied that there was sufficient cause for the delay. In the instant case, Judicial Magistrate was satisfied that there was sufficient cause for the delay of 10 days in filing compliant.

7. In this regard, it may be useful to refer to the following decisions:

(a) (2004) 12 Supreme Court Cases 278 in the case or N. Mani .vs. Sangeetha Theatre and others and the relevant portion is extracted hereunder:

“9. It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a



source available in law."

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(b) ***(2008) 5 Supreme Court Cases 633 in the case of T.Nagappa .vs. Y.R.Muralidhar***, wherein, it was held as under:

"13.

It is now a well settled principle of law that non mentioning or wrong mentioning of provision of law would not be of any relevance, if the Court had the requisite jurisdiction to pass an order."

8.In view thereof, this Court finds that there is no merit in the Criminal Revision Case and accordingly, the same stands dismissed. Consequently, connected Miscellaneous Petition is closed.

02.12.2025

NSC :Yes/No
Index:Yes/No
Internet:Yes/No

vsn

To
1.The Judicial Magistrate(FAC),
Fast Track Court,
Nagercoil,
Kanyakumari District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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MOHAMMED SHAFFIQ, J.

vsn

ORDER MADE IN
CRL.RC(MD)NO.1084 OF 2025
and
CRL.M.P(MD)No.10895 of 2025

02.12.2025