

Petitioner Vs. Respondent

Petitioner Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1190583

Court : Chennai Madurai

Decided On : Jun-13-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : CRL.MP (MD) No. 1937 of 2016 in CRL.RC(MD) No. SR6583 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

1. This petition is by a defeated complainant in the Court of the Appellate Judge, seeking condonation of delay of 1215 days caused in preferring appeal as against the order of acquittal passed by the Trial Court.
2. The revision petitioner instituted a private complaint, under Section 200 Cr.P.C., as against the respondent herein in the Court of the learned Judicial Magistrate, Fast Track Court Level, Thanjavur, for an offence under Section 138 N.I.Act.
3. The learned Magistrate convicted the respondent on 09.05.2011. The respondent appealed in C.A.No.37 of 2011, before the learned I Additional Sessions Judge, Thanjavur. The appeal was allowed and he was acquitted on 18.07.2012. He has forgotten the bitter experience of a criminal case. Subsequently, he was caught by a killer disease. He is suffering out of a terminal illness. He is fighting for his life.

4. At this juncture, again the complainant wants to drag him to a court case. But, before that, there was a lull for about 1215 days. Actually, what the petitioner seeks is condoning the delay of 1215 days caused in preferring the appeal as against the said order of acquittal.

5. Generally, in these matters Courts take liberal attitude. But, it depends on the facts and circumstances of each case. Condonation of delay caused in preferring an appeal as against conviction is different from condonation of delay caused in preferring an appeal as against acquittal. In case of appeal as against conviction, Courts are liberal, bound to be liberal, because a person wants to challenge conviction and sentence and if the delay is not condoned, his conviction and sentence stand confirmed without a hearing on merits. Further, right of such appeal, under Section 372 Cr.P.C., is now held to be a fundamental right under Article 21 of Constitution of India.

6. However, the approach of a Court would be different if it is an appeal as against acquittal. Already a person has been acquitted. His innocence has been established. The petitioner must satisfy the Court a valid ground to make the Court to exercise its discretion. There must be some acceptable reason as to why the delay has occurred, otherwise, the Criminal Courts will become a playground to exercise one's vendetta.

7. In this case, in para No.5 of the petitioner's affidavit, the reason for the delay has been stated as under:

5. I submit that since I have affected by serious and continuous stomach pain and due to my poor health condition, I was admitted at Hospital, due to which I was not able to file the present appeal in time and my family members were also taking care of me in the hospital.

8. The learned counsel for the respondent submits that it is a cock and bull story, a figment of imagination, highly imaginary, even a child will not believe it. That apart, there is no supporting materials.

9. In the facts and circumstances, it is seen that no acceptable reason has been given to condone the delay. I am not inclined to condone the delay.

10. Thus, this petition is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com