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Court : Chennai Madurai

Decided On : May-04-2016

Judge : P.N. Prakash

Appeal No. : CrI.RC (MD) No. 281 of 2016

Appellant : Loganathan

Respondent : The State rep. by Inspector of Police, Trichy District

Judgement :

(Prayer: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C. calling for the records and set aside the order dated 21.01.2016 in Cr.M.P.No.3262/2015 in Cr.R.C.SR.332/16.11.2015 on the file of the learned Sessions Judge, Thiruchirappalli and condone the delay of 69 days in preferring the criminal revision petition.)

1. This petition has been filed to set aside the order dated 21.01.2016 passed in Cr.M.P.No.3262/2015 in Cr.R.C.SR.332/16.11.2015 on the file of the learned Sessions Judge, Thiruchirappalli and condone the delay of 69 days in preferring the criminal revision petition.
2. Heard the learned counsel for the petitioner and the learned Government Advocate [crl.side] appearing for the State.

3. The petitioner was working as Sub Inspector of Police, Traffic Investigation Wing, Trichy during 2002. A motor vehicle accident took place on 03.07.2002, in connection with which, on the complaint of one Rangasamy, a case in Cr.No.502/2002 was registered by the Motor Vehicles Investigation Wing for offences u/s 279 and 337 IPC by one Kuzhandaivelu, Head Constable of Police. One Sheik Dawood was arrested by the police in connection with Cr.No.502 of 2002. The investigation was taken over by the petitioner herein, who filed a Final Report against the said Sheik Dawood in STC No.3/2013 for offences u/s 279 and 338 IPC before the Judicial Magistrate-III, Trichy and Sheik Dawood pleaded guilty on 07.01.2003 and paid a fine of Rs.1,250/-. Rangasamy, the alleged victim in this case, filed a petition for compensation in MCOP No.410 of 2003 before the Motor Accident Claims Tribunal, claiming Rs.2,00,000/- as damage.

4. The Insurance Company lodged a complaint to the police contending that, the actual vehicle involved in the said accident bears Reg.No.TN-45-C-7500 and it was driven by one Chinnaiyan and not Sheik Dawood and that, in order to claim compensation from the Insurance Company, the vehicle TN-48-B-5185 was substituted in the place of TN-45-C- 7500. The District Crime Branch police registered a case in Cr.No.25/2004 u/s 420 IPC on 06.09.2004 and referred the case as "mistake of fact" on 24.08.2005, which was accepted by the learned Judicial Magistrate-III, Trichy on 26.09.2005. While so, a further investigation appears to have been conducted, in which a Final Report has been filed in C.C.No.13/2013 for offences u/s 120(b), 193, 209 and 420 r/w 511 IPC against three persons, including the petitioner herein. The petitioner filed a discharge application in Crl.M.P.No.5331/2013 u/s 239 Cr.P.C. before the trial Court, which was dismissed on 06.06.2015. Against the dismissal of the discharge application, the petitioner preferred a revision petition u/s 397 Cr.P.C. before the Principal District and Sessions Judge, Trichy with a delay of 69 days. The application under Section 5 of the Limitation Act for condoning the delay of 69 days in Crl.M.P.No.3262/2015 has been dismissed by the learned Principal District and Sessions Judge, Trichy, on 21.01.2016, challenging which the petitioner is before this Court.

5. The learned counsel for the petitioner contended that the petitioner was not able to prefer the revision within 90 days, because he was physically indisposed. In support of this plea, the petitioner has submitted certain medical records to the Sessions Court, considering which the Sessions Judge dismissed the condonation petition.

6. This Court perused the medical records and the impugned order.

7. Admittedly, the application for condonation of delay was dismissed on 21.01.2016 and the copy application for obtaining the certified copy was lodged by the petitioner, pursuant to which the certified copy of the impugned order was made ready on 30.06.2015. It was collected by the petitioner only on 03.07.2015, which is nearly one month later.

8. On perusal of the medical records it is seen that, the medical certificate is dated 02.11.2015. It is trite that this Court should liberally consider an application for condonation of delay, for, the dismissal of the petition may result in grave miscarriage of justice. Now, this Court has to see whether, by dismissing the petition for condonation of delay in this case, will it lead to miscarriage of justice? The Final Report was filed in the year 2013 and by filing the discharge application, the petitioner has protracted the proceedings till 2015. The law relating to discharge of an accused u/s 239 Cr.P.C. has been fairly settled. Even a strong suspicion is sufficient to frame a charge. The dismissal of the condonation of delay application will not automatically entail conviction and sentence of the accused. It is still open to the accused to raise all the defences during trial. Therefore, no miscarriage of justice will ensue, if this petition is dismissed.

In the result, this petition is devoid of merits and the accordingly, the same is dismissed.

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