

WEB COPY

CRL RC No. 1107 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-01-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL RC No. 1107 of 2022

M.R.P Finance
No.4/488,M.R.P Finance Complex,
Bharathi Nagar,
Palladam Road,Tiruppur,

Rep by Power of Attorney and Manager
R.Palanisami, 54 Years,
S/o.Ramasamy Gounder,
No.3/13, Nallagoundanpalayam,
Madhappur, Palladam,
Tiruppur District.

Petitioner(s)

Vs

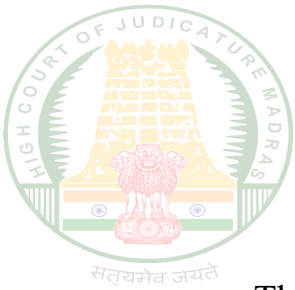
M.Venkatachalam
S/o.Mylsamy,
No.17A, Thiru.Ve.Ka. Nagar,
7th Street, Vellingadu,Tiruppur

Respondent(s)

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Cr.P.C., 1973, praying to set aside the order dated 23.09.2021 made in Crl.M.P. No.678 of 2017 on the file of Judicial Magistrate Court No.IV, Tiruppur and to allow the Criminal Revision Case.

For Petitioner(s): Mr.C Prabakaran

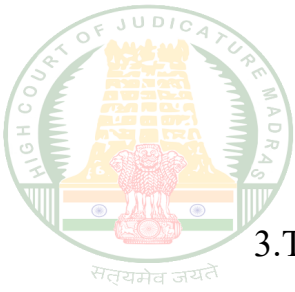
For Respondent(s): Mr.M.Mohamed Saifulla
Legal Aid Counsel



ORDER

The Criminal Revision Petition has been filed challenging the order dated 23.09.2021 made in Crl.M.P. No.678 of 2017 on the file of Judicial Magistrate Court No.IV, Tiruppur.

2.The learned counsel for petitioner submitted that initially a complaint was filed on 26.08.2016 by M/s.M.R.P. Finance represented by its Manager, K.S.Kumarraj. The case of the petitioner/complainant is that the respondent/accused used to borrow and repay loan from petitioner's company for his urgent business requirements. In such transaction, for discharge of loan liability, he issued a cheque for Rs.6,00,000/-. The said cheque was presented, got dishonoured and thereafter complaint filed with a delay of 100 days. The petitioner filed a petition under Section 142(b) of Negotiable Instruments Act (in short 'N.I. Act') before the trial Court to condone the delay of 100 days in filing the complaint on the ground that the said K.S.Kumarraj-Manager was bedridden with sickness. The condone delay petition was objected by the respondent stating that that petitioner had not given explanation for the delay except citing his health grounds.



3.The learned counsel further submitted that the said Kumarraj has now passed away due to illness at DSK Hospital, Kangeyam Road, Tiruppur on 25.05.2022, which confirms that he had health issues and finally passed away. Further the finance company had given a power of attorney on 09.06.2022 to one R.Palanisamy, S/o.Ramasamy Gounder and also filed this revision represented by the Power of Attorney and Manager, R.Palanisamy.

4.He further submitted that the respondent not denied the issuance of cheque or his signature in the cheque and thus the statutory presumption is starrng at him. The condone delay petition was dismissed only on technical grounds. Therefore, the complaint was rejected without conducting a full-fledged trial. Thus, short-circuiting the judicial process is not proper and in all fairness, the complainant ought to have been allowed to conduct the trial and the defence of the respondent can be decided at the time of trial. Hence, he prayed to allow this revision.

5.The learned Legal Aid Counsel for the respondent submitted that the complaint filed with a delay of 100 days during August, 2016. The respondent filed counter and objected for the delay. The trial Court found that the petitioner had not given reasons for each day delay and by a well reasoned order

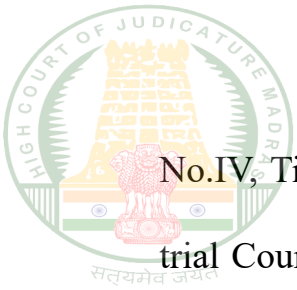


dismissed the condone delay petition. The petitioner, as on date, not produced any records to show that the erstwhile Manager, K.S.Kumarraj was hospitalised and took treatment and that is the reason for delay. Hence, he strongly opposed this petition.

6.Considering the submissions made on either side and upon perusal of the material, it is seen that the petitioner filed a complaint under Section 138 of the N.I. Act. The complainant is a finance company and their contention is that the respondent received loan and in discharge of loan, he issued the cheque. The proviso to Section 142 of N.I. Act was brought in for the purpose of condoning the delay in filing the complaint under Section 138 of N.I. Act and substantial justice can be done only after considering the contention of both the petitioner/complainant and respondent/accused after full-fledged trial.

7.Now it is seen that the earlier Manager, K.S.Kumarraj died and death certificate produced confirming that he was not in good health. Though the death occurred after five years, on the submissions and on the records this Court finds that K.S.Kumarraj, erstwhile Manager was not in good health.

8. In view of the same, this Court set asides the impugned order dated 23.09.2021 made in Crl.M.P.No.678 of 2017 by the learned Judicial Magistrate



No.IV, Tiruppur and the delay in filing the complaint is hereby condoned. The trial Court is directed to take the complaint on file and dispose of the same on its own merits and in accordance with law.

9.With the above directions, the Criminal Revision Case is allowed.

10.This Court appreciates the service rendered by Mr.M.Mohamed Saifulla, learned Legal Aid Counsel for the respondent. The Tamil Nadu State Legal Services Authority shall pay the remuneration to Mr.M.Mohamed Saifulla, Legal Aid Counsel.

19.01.2026

Index: Yes/No
Speaking / Non-speaking order
Neutral citation : Yes/No
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Note: Issue order copy on 20.01.2026

To

- 1.The Judicial Magistrate No.IV,
Tiruppur.
- 2.The Tamil Nadu State Legal Services Authority,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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