

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE,
TIRUVANNAMALAI.

PRESENT: Thiru.***P. Mathusuthanan, B.A.,B.L.,***
Principal Sessions Judge,
Tiruvannamalai.

Tuesday, the 18th day of March, 2025.

M.P.No.1/2024 in Unfiled C.A

(CNR.No.TNTM01-001240-2025)

Anandraj @ Peter ... Petitioner /Accused

Versus

Ramachandran ... Respondent/Complainant

This Criminal Miscellaneous Petition has come up before me for final hearing today (18.03.2025) and upon hearing the arguments of **Tr.A.Parthiban**, Learned Advocate appearing for the Appellant/Accused and of **Tr. J.Balraj**, Learned Advocate appearing for the Respondent and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioner filed this petition under section 5 of Limitation Act to condone the delay of 943 days in representing the Criminal Appeal and admit the same.

2) **Brief averments of the petition are as follows:**

The petitioner is the appellant in the above main Criminal appeal. The respondent filed the main complaint as against in CC.No.36/2020 before the Hon'ble Judicial Magistrate, Fast Track Court, (Magistrate Level), Tiruvannamalai and the Hon'ble Court has convicted him for the offence under section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay a sum of Rs.3,00,000/- under section 357(3) of Crpc being the cheque amount to the complainant as compensation and in default to undergo simple imprisonment for two months vide order dated 28.03.2022. Subsequently sentence of imprisonment was suspended till 28.04.2022. He was released on bail as per order in CrI.O.P.No.408/2022 dated : 28.03.2022.

Trial Court has passed the orders on 28.03.2022 and he gave instructions to his counsel in proper time and the appeal was also filed before this Court. The Court returned the suspension of sentence petition for want of Cr.M.P.No. Of Trial court. It was also resubmitted and subsequently he was affected with jaundice and he had been under Naturopathy and Siddha treatment in the villages. The plaintiff after long time he was able to contact his counsel and the counsel informed there is a delay in representing the appeal and hence to file the petition to condone the delay. The delay is neither wilful nor wanton. The same was only due to sudden jaundice which continued for very long time. So he was

unable to represent the petition in time. So, there is a delay of 943 days in representing the criminal appeal.

The good chances of success in the appeal and if the delay is not condoned and this appeal is not admitted to file, he will be put to great loss and serious hardship. There is a delay of 943 days in representing the criminal appeal. That the delay is neither wilful nor wanton and the same is beyond his control. The petitioner is in judicial custody from 06.03.2025 and also the appellant is a heart patient. If the delay is not condoned, he will be put to great loss and serious hardship. Hence this petition.

3) Respondent counsel filed a memo stating that no objection to allow this petition.

4) **Point for consideration in this petition is that**

Whether the petition is to be allowed as sought for?

5) **Point:** **Heard and perused the records.** Admittedly, there was a delay of 943 days in representing the criminal appeal as against the Judgment passed by the Judicial Magistrate, Fast Track ML, Tiruvannamalai in C.C.No.36/2020 dated : 28.03.2022 as against the petitioner. It is well settled Law that the petitioner shall be given a fair opportunity to contest his case on merits and the right of the petitioner to prefer an appeal shall not be rejected at threshold on the ground of mere delay only.

6. Having considered the reasons mentioned in the petition as well as the memo filed by the respondent that he has no objection to allow this petition and the facts and circumstances of the case and in the interest of justice, this court is inclined to allow this petition. Thus, the point is answered accordingly.

In fine, this petition is allowed. No costs.

This Order is dictated by me to the Steno-Typist Grade-III of this Court, typed by him directly in Computer, corrected and pronounced by me in open court, this the 18th day of March, 2025.

**Principal Sessions Judge,
Tiruvannamalai.**

Copy to

The Learned Judicial Magistrate, Fast Track (ML), Tiruvannamalai.