HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

***THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA**

+CRIMINAL REVISION CASE No.1649 of 2015

Between:

Veeramallu Krishna **...PETITIONER**

AND

$ Chitturi Rama Krishna and another **...RESPONDENTS**

JUDGMENT PRONOUNCED ON **06.10.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

JUSTICE TUHIN KUMAR GEDELA

* **THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA**

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Between:

Veeramallu Krishna **...PETITIONER**

AND

$ Chitturi Rama Krishna and another **...RESPONDENTS**

! Counsel for the Petitioner : Mr.Ch.Ganesh representing Mr.Sai Gangadhar Chamarty

! Counsel for the 2nd Respondent : Ms.Akhila Naidu, Assistant Public Prosecutor

<Gist :

>Head Note:

? Cases referred: 1. 2025 Live Law (SC) 889

APHC010545662015

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3548]**
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

CRIMINAL REVISION CASE NO: 1649/2015

Between:

1. VEERAMALLU KRISHNA, W.G.DT., S/O.TATAYYA, AGED ABOUT 57 YEARS, R/O.D.NO.LIG 78, APHB COLONY, TANUKU, WEST GODAVARI DISTRICT.

...PETITIONER

AND

1. CHITTURI RAMA KRISHNA W G DT ANR REP PP, S/O.GANDHI @ RAMA RAO, AGED ABOUT 42 YEARS, R/O.OLD TOWN, TANUKU, WEST GODAVARI DISTRICT.
2. THE STATE OF ANDHRA PRADESH, REP.BY ITS PUBLIC PROSECUTOR HIGH COURT BUILDINGS, HYDERABAD.

...RESPONDENT(S):

Revision filed under Section 397/401 of Cr.P.C. praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to call for the records of order dated 8-5-2015 in Crl.MP.No.2236 of 2013 in C.C.SR.No.8224 of 2013 which was subsequently numbered as C.C.No.559 of 2015 on the file of the Court of the II Additional Judicial Magistrate of First Class at Tanuku, W.G.District and pass such other orders as may deem fit and proper in the circumstances of the case.

IA NO: 1 OF 2015(CRLRCMP 2610 OF 2015

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

grant stay of all further proceedings in C.C.No.559 of 2015 on the file of the Court of the II Additional Judicial Magistrate of First Class at Tanuku, W.G.District pending disposal of the above revision and pass such other orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:

1. SAI GANGADHAR CHAMARTY

Counsel for the Respondent(S):

1. DEVINENI RADHA RANI
2. PUBLIC PROSECUTOR (AP)

The Court made the following:

ORDER:

Heard,

Mr.Ch.Ganesh, learned counsel representing Mr.Sai Gangadhar Chamarthy, learned counsel for the revision petitioner, and Ms.Akhila Naidu, learned Assistant Public Prosecutor appearing for the State.

2. Mr.Ch.Ganesh, learned counsel, marked his arguments stating that the Criminal Revision Case has been filed challenging the order dated 08.05.2015 passed in Crl.M.P.No.2236 of 2013 in C.C.No.559 of 2015 on the file of the II Additional Judicial Magistrate of First Class, Tanuku (hereinafter referred to as 'Trial Court'), allowing the petition filed for condonation of the delay of 87 days in filing the complaint, which is contrary to the very provisions of the Negotiable Instruments Act (hereinafter referred to as 'the Act').

3. The parties are referred to as the petitioner/accused and the respondent/complainant.

4. The only question that arises for this Court to adjudicate as to whether the Trial Court was right in allowing the petition filed for condonation of the delay of 87 days in filing the complaint, in consonance with the provisions of the Act. In view of the same, this Court is not venturing into the other facts of the case.

5. The facts of the case, taken collectively, which are germane to the adjudication of the case, are encapsulated hereunder:

(i) The respondent/complainant filed a petition under Section 142(b) of the Negotiable Instruments Act, detailing that the accused borrowed an amount of Rs.2,00,000/- on 10.10.2011 and agreed to repay the said amount together with interest @ 24% per annum and executed a promissory note on even date in favour of the complainant. The cheque was issued by the accused with bearing No.0003966 of D.C.C.B. Limited, Tanuku branch, dated 05.11.2012 for Rs.2,50,000/- towards full and final settlement of the debt. The said cheque was presented for collection on 09.01.2013, but the same was returned unpaid with the endorsement that the account is closed.

(ii) The other legal formalities were adhered to by issuing a legal notice through his advocate on 06.02.2013 and it was not claimed and the amount remained unpaid and the complainant filed the said application with a delay of 87 days.

(iii) As per the affidavit, the complaint was required to be filed within the limitation period i.e., on or before 25.03.2013, but due to his ill-health and was undergoing treatment in Sirisha Nursing Home, Tanuku. He asserts that the doctor advised him to take rest till 20.06.2013 and due to these reasons, the delay accorded and filed the petition.

6. The Trial Court, on 08.05.2015, in Crl.M.P.No.2236 of 2013 in C.C.No.559 of 2015, allowed the said petition condoning the delay of 87 days on the basis of the medical certificate filed by the complainant. It is necessary to reproduce the order passed by the Trial Court, which reads as follows:

> *"Admittedly there is a delay of 87 days. But the petitioner placed medical certificate before the court for happening of delay in filing the complaint. Though the counsel for the respondent opposed to condone the delay of 87 days, it is just and necessary basing on medical report to allow this petition. Hence the 87 days is condoned and on perusal of record prima facie shows the acquisition against the accused. Hence taken cognizance against the accused for the offence u/sec. 138 NI Act. Issued summons to the accused on payment of process. Call on 22.7.2015."*

7. As can be noticed from the aforesaid paragraph, the application was allowed considering the medical report which was filed to substantiate the reasons for the delay of 87 days in filing the complaint. Except for the said observation, there is no other reason indicated in the said order.

8. Mr.Ch.Ganesh, learned counsel appearing for the revision petitioner, would submit that a counter is filed refuting the contents in the petition. He draws the attention of this Court to the averments made in the counter and more specifically paragraph 4 thereof. In the counter, there is a specific denial that the delay in filing the complaint is not properly explained and the reason for delay in filing the complaint is nothing but stage managed besides false and baseless. The counter further asserts that cogent reasons are not given and basing on the medical certificate, which is a created document, which does not represent the truth or reality and also does not contain the date on which it was issued by the doctor or the period the treatment was undergone.

9. The specific argument advanced by the learned counsel for the revision petitioner is that the medical certificate is a fabricated document and

basing on the said document which is fabricated, the Trial Court ought not to have condoned the delay. The other argument advanced by the learned counsel for the revision petitioner is that the counter was not at all considered, while allowing the application seeking condonation of delay.

10. Learned counsel for the revision petitioner would further submit that the very allowing of the application and taking cognizance of the complaint filed by the complainant itself is contrary and hence, he prays this Court to allow the Criminal Revision Case.

11. Ms.Akhila Naidu, learned Assistant Public Prosecutor appearing for the State, would submit that the order passed by the Trial Court in Crl.M.P.No.2236 of 2013, allowing the petition appears to be crippled with illegalities, which is contrary to the very provisions of the Act. Learned Assistant Public Prosecutor would further submit that when the provisions of the Act postulates to do in a particular way, the same manner has to be followed and not contrary.

12. Learned Assistant Public Prosecutor would draw the attention of this Court to Section 142 of the Act, wherein it is adumbrated as to how and when cognizance of an offence has to be taken. Section 142 of the Act reads as follows:

> ***"142. Cognizance of offences.—***
>
> *(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—*
>
> *(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in*

writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period.

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.

(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.— For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account."

13. Learned Assistant Public Prosecutor would further submit that, in the interest of justice and to uphold the law, in addition to her arguments, would point out to the medical certificate placed by the complainant and points out that the very name mentioned in the medical certificate appears to be different and not that of the complainant. More so, it is written as wife of Gandhi (name of complainant is not clear). In addition, learned Assistant Public Prosecutor contends that, in the very petition filed for condonation of delay, it is stated that the doctor advised the complainant to take rest, which is nothing but a fabricated document only to overcome the aspect of delay, the

said medical certificate was placed before the Court and submits that the complainant has definitely approached the Court with unclean hands.

14. Heard Mr.Ch.Ganesh, learned counsel representing Mr.Sai Gangadhar Chamarthy, learned counsel for the revision petitioner, and Ms.Akhila Naidu, learned Assistant Public Prosecutor appearing for the State.

15. As per Section 142 of the Act, it is very clear that the provision prescribes a limitation period of 30 days. The Courts, while condoning the delay in approaching the Court, needs to adhere to the said section and in the event, if the delay is condoned, the reasons much less cogent reasons should be indicated basing on the material.

16. In the present case, this Court finds that the medical certificate is only document taken by the Trial Court and even the Trial Court has not considered the document correctly. As pointed out by the learned counsel for the revision petitioner and learned Assistant Public Prosecutor, the medical certificate contains no date and also the name appearing in the medical certificate is entirely different. This fallacy is noticed by this Court and holds that the Trial Court has totally failed to construe medical certificate in a proper perspective and condoned the delay in a hasty manner contrary to the very act.

17. During the course of arguments, learned counsel for the revision petitioner and the learned Assistant Public Prosecutor relied upon the same judgment of the Hon'ble Supreme Court in ***H.S.Oberoi Build Tech Private***

Limited and others vs. M/s. MSN Wood Tech[1], wherein the Hon'ble Supreme Court considered Section 142 of the Negotiable Instruments Act and made the following observation in paragraph 8:

> *"8. Once the statute prescribes a mandatory time limit for filing a complaint, there cannot be any deviation from the same except when an application accompanying the complaint is filed seeking condonation disclosing reasons for the delay and even then it is obligatory on the part of the Court to take note of such filing beyond limitation and to consider the reasons disclosed independently and to come to a judicious conclusion that in the facts and circumstances of that case condonation is justified. The same not having been done, the order cannot be sustained."*

18. Taking into consideration the judgment of the Hon'ble Supreme Court referred to above, it is clear that the Trial Court has not properly examined the document and without giving proper reasons and basing on the medical certificate which clearly emanates that the same is fabricated and also the contention of the petitioner finds force that the counter filed by the petitioner/accused was not taken into consideration before passing the order.

19. It is beyond *cavil of doubt* that condoning the delay in civil proceedings and the delay in criminal proceedings is totally different and has to be strictly construed. As observed by the Hon'ble Supreme Court in the judgments referred to above, the Courts have to consider the delay in filing the complaint strictly and come to a judicious conclusion, which is conspicuously missing in the present case.

[1] 2025 LiveLaw (SC) 889

20. In fine, the order dated 08.05.2015 passed in Crl.M.P.No.2236 of 2013 in C.C.No.559 of 2015 on the file of the II Additional Judicial Magistrate of First Class, Tanuku, is hereby set aside.

21. Resultantly, the Criminal Revision Case is allowed. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

TUHIN KUMAR GEDELA, J

Date : 06-10-2026
BMS