

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 20TH DAY OF JUNE 2005

BEFORE

THE HON'BLE MR.JUSTICE A.C.KABBIN

CRIMINAL REVISION PETITION NO.722 OF 2005

BETWEEN:

Mohammed Ali
S/o late M.Obedullah
Aged about 57 years
R/o No.42, St.Johns
Church Road, Cleveland Town
Bangalore-560 005.

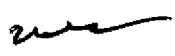
..PETITIONER

(By Sri.S.M.Razvi &
R.Mahesh, Advs)

AND:

Yelahanka Merchants
Finance Company Pvt.Ltd.,
L.V.Complex
B.B.Road, Yelahanka
Bangalore-560 064
(REp by its Manager
and GPA holder Smt.Girija
W/o Garudappa, aged about
37 years, H.K.Nagar, B.S.Road
Yelahanka, Bangalore-560 064.)

...RESPONDENT



(By Sri.N.Srinivas &
M.R.Shashidhar, Advs)

This CrI.R.P filed under Section 397 and 401 Cr.P.C. praying to set aside the judgment dated 30-09-2004 passed by the Addl. S.J., FTV V, Bangalore INC RL.A.No.458/2004 confirming the order dated 29-03-2004 passed by the XVIII ACMM and XX ASCJ, Bangalore in CC No.36269/2001 and acquit the petitioner.

This CrI.P. coming on for orders this day, the Court made the following:-

ORDER

The petitioner herein is the accused in CC No.36269/2001 on the file of the XVIII Addl. Chief Metropolitan Magistrate, Bangalore City, for an offences punishable under Section 138 of the Negotiable Instruments Act. He was tried and convicted for the said offence and was sentenced to pay a fine of Rs.3,05,000/- in default to undergo simple imprisonment for a period of three months. Challenging the said conviction and sentence, he preferred CrI.A.No.458/2004 which came to be dismissed on 30-09-2004 by the learned Addl. Sessions Judge, Fast Track Court-V, Bangalore City. Challenging

both the judgments, the present revision petition has been filed.

2. Since there is a delay of 134 days in preferring the revision petition, an application (IA 1/2005) has been filed for condonation of delay. The ground urged for condonation of delay is that the petitioner was suffering from heart and diabetics problem and was not able to move about for nearly 130 days. In support of his contention, the petitioner has enclosed a certificate issued by one Dr.M.N.Krishna Murthy of Astanga Clinic, S C Road, Sheshadripuram, Bangalore -560 020. The certificate mentions that the petitioner was suffering from nervous debility and mild paralysis and was under the treatment of the said doctor from 15-09-200 to 09-05-2005.

3. This certificate is quite inconsistent with the plea taken by the petitioner that he was suffering from heart and diabetics. Besides, the said doctor is only a registered medical practitioner and is not a qualified specialist to diagnose nervous debility and treat for

such disorder. The medical certificate is not at all reliable, since it mentions different illness than the one pleaded by the petitioner and since it has been issued by an unqualified person. Consequently the ground urged is not acceptable and IA I/ 2005 is dismissed.

In the result, the revision petition is **dismissed** as it is barred by time.

Sd/-
Judge

*bgn/-