

BAIL SLIP

The petitioner i.e., Srinivasan in CrI.R.C.No.115/2014 (Sole Accused in C.A.No.9 of 2014 on the file of the Principal District Judge at Tirupur) was released on bail vide order of Court dated 11.11.2014 made in CrI.R.C.No.1151/2014 & M.P.Nos.1 and 2/2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1151 of 2014

Srinivasan

.. Petitioner

Versus

Paul A. Kunnath
Son of K.T. Anthony
Proprietor of M/s. Kunnath Papers
Door No.504, Near Pushpa Theater
P.N. Road
Tirupur - 641 602

.. Respondent

Criminal Revision Case filed under Sections 397 read with Sec. 401 of Cr.P.C. to set aside the Judgment dated 03.09.2014 passed in Criminal Appeal No. 9 of 2014 on the file of Principal District Judge, Tirupur confirming the order dated 28.12.2013 passed in S.T.C. No. 100 of 2012 on the file of Judicial Magistrate cum Fast Track Judge at Tirupur.

For Petitioner : Mr. K. Vignesh Karthick
For Respondent : Mr. V. Vijayakumar

ORDER

The respondent herein has filed a complaint under Section 138 of the Negotiable Instruments Act against the revision petitioner herein contending that the respondent is a firm carrying on paper materials. During the course of such business, the revision petitioner, who was the proprietor of Ganapathy Stickers approached the respondent and purchased paper materials on credit basis for Rs.1,41,333/-. In order to repay the debt, the revision petitioner has issued a cheque dated 31.07.2007 for the sum of Rs.1,41,333/- in favour of the respondent. On presentation of the cheque, it was dishonoured for the reasons "insufficient funds" in the account maintained by the revision petitioner. Therefore, on 20.08.2007, the respondent issued a statutory notice. The said notice dated 20.08.2007 was returned unserved with an endorsement "not claimed" on 03.09.2007. Thereafter, the respondent has filed the above

complaint under Section 138 of the Negotiable Instruments Act. The trial Court, on appreciation of the oral and documentary evidence, rendered a finding of guilt against the revision petitioner. Accordingly, the revision petitioner was convicted for the offence under Section 138 of The Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of one year with fine of Rs.5,000/- failing which to undergo simple imprisonment for one month. Such conviction and sentence imposed on the revision petitioner was confirmed by the Appellate Court by the judgment dated 03.09.2014 in Criminal Appeal No. 9 of 2014. As against the concurrent decisions of the Court below, the present Criminal Revision Case is filed.

2. The learned counsel appearing for the revision petitioner confined his arguments with respect to reduction of sentence and not on merits. It is also stated when the above Criminal Revision Case came up for hearing on 09.12.2014, this Court directed the petitioner to deposit a sum of Rs.50,000/- to the credit of S.T.C. No. 100 of 2012 and it was also complied with by the petitioner. The learned counsel for the petitioner submits that the revision petitioner is prepared to pay the balance cheque amount if time is given to him and on such payment, the sentence imposed on the petitioner may be modified by this Court.

3. The learned counsel for the respondent/complainant would contend that the Courts below have awarded only a minimum punishment to the petitioner. However, if the revision petitioner is prepared to deposit the cheque amount in to the trial Court, he may be permitted to withdraw the amount.

4. I heard the counsel for both sides and considered their submission. Having regard to the submission of the counsel for the petitioner that he is prepared to deposit the cheque amount and he has already deposited a sum of Rs.50,000/- to the credit of S.T.C. No. 100 of 2012 as per the directions of this Court on 09.12.2014, this Court is inclined to modify the sentence imposed on the petitioner. Accordingly, the petitioner is directed to pay the balance cheque amount to the respondent directly or in the alternative he shall deposit the balance cheque amount to the credit of S.T.C. No. 100 of 2012 on the file of Judicial Magistrate cum Fast Track Judge, Tirupur within a period of three months from the date of receipt of a copy of this order. On such deposit, the respondent is permitted to withdraw the amount. In the event of failure to pay or deposit the balance cheque amount, the orders passed by the courts below shall stand confirmed.

5. In the result, the conviction imposed on the petitioner by the courts below is confirmed and the sentence alone is modified into one of payment of compensation as indicated above. The Criminal Revision Case is partly allowed.

Sd/-

Assistant Registrar

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To

1. The Principal District Judge
Tirupur

2. The Judicial Magistrate cum Fast Track Judge
Tirupur.

3.The Chief Judicial Magistrate,Tiruppur

1 cc to Mr.K.S.Kaviarasu, Advocate Sr.No.36536

1 cc to Mr. V. Vijayakumar, Advocate Sr.No.36602

Cr1 RC No.1151 of 2014

gj(co)
pmk.11.8.2015



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