

Bail Slip

The Petitioner/Accused namely Mr.Arockiyaraj was directed to be released on bail vide order dated 04.03.2014 made in Crl.M.P.No.1/2014 in Crl.R.C.No.98/2014.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-07-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 98 of 2014

M. Arokiyaraj ... Petitioner

Versus

V.M.R. Kumar @ Sivakumar ... Respondent

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code to set aside the Judgment dated 04.12.2013 made in Criminal Appeal No. 275 of 2012 on the file of V District and Sessions Judge, Coimbatore confirming the Judgment dated 04.09.2012 made in S.T.C. No. 4915 of 2011 on the file of Judicial Magistrate No.I, Pollachi

For Petitioner : Mr. S. Manoharan
For Respondent : Mr. M.N. Balakrishnan

ORDER

The respondent has filed a complaint under Section 138 of The Negotiable Instruments Act against the petitioner contending that the revision petitioner/accused has borrowed a sum of Rs.4,00,000/- from him as hand loan. Subsequently, on being demanded, the revision petitioner issued a cheque for a sum of Rs.4,00,000/- in favour of the respondent and on presentation of the cheque, it was dishonoured on 13.06.2011 with an endorsement that there is "insufficient funds" in the account to honour the cheque. Therefore, the respondent issued a legal notice dated 20.05.2011 calling upon the revision petitioner to pay the cheque amount. The revision petitioner, on receipt of the notice on 24.05.2011, issued a false reply dated 06.06.2011. The trial Court, after trial, convicted the revision petitioner under Section 138 of The Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment with compensation of Rs.4,00,000/- payable to the respondent within one month, in default, to undergo simple imprisonment for two months. The judgment of conviction passed by the trial Court on 04.09.2012 was confirmed by the Appellate Court

in the judgment dated 04.12.2013. The aforesaid judgments of the Courts below are challenged in this Criminal Revision Case.

2. Today, when the Criminal Revision Case is taken up for hearing, both the revision petitioner and the defacto complainant/respondent are present along with their respective counsel. It is represented by the learned counsel for the revision petitioner/accused that pending the above Criminal Revision Case, this Court, while granting suspension of substantial sentence imposed against the revision petitioner/accused directed him to pay Rs.2,00,000/- to the credit of S.T.C. No. 4915 of 2011 and it was paid by the revision petitioner/accused. It is further represented that the revision petitioner as well as the respondent have agreed to settle the dispute among themselves and they have also entered into a Memorandum of Understanding on 02.07.2015. A copy of the memorandum of understanding has been produced before this Court as per which, the revision petitioner/accused agreed to pay the balance sum of Rs.2,00,000/- and the respondent/complainant also agreed to receive the said amount. The memorandum of understanding has been duly signed by the revision petitioner as well as the respondent. The defacto complainant/respondent has therefore agreed to compound the sentence imposed against the revision petitioner. To this effect, the respondent complainant has also filed a petition under Section 147 of the Negotiable Instrument Act to compound the offence inter alia to set aside the judgment of conviction and sentence imposed on the revision petitioner by both the Courts below.

3. Considering the fact that the dispute has been compromised between the parties and the defacto complainant/respondent has also filed a petition to compound the offence complained against the revision petitioner, this Court is of the view that the conviction and sentence imposed on the petitioner can be permitted to be compounded as per the decision of the Honourable Supreme Court in (i) B.M. Joshi vs. State of Haryana (2003) 4 SCC 675 (ii) Nikhil Merchant vs. C.B.I. 2008 (3) SCC CrI 858 (iii) Jagdish Chanana and others vs. State of Hariyana 2009 (3) SCC CrI. 1157. Accordingly, following the decision of the Honourable Supreme Court referred to above, this Court is of the view that the judgment of conviction passed against the petitioner could be set aside. Accordingly, the Judgment dated 04.12.2013 made in Criminal Appeal No. 275 of 2012 on the file of V District and Sessions Judge, Coimbatore confirming the Judgment dated 04.09.2012 made in S.T.C. No. 4915 of 2011 on the file of Judicial Magistrate No.I, Pollachi are set aside. The Criminal Revision Case is allowed.

rsh

03.07.2015

This matter having been listed on 7.8.2015 under the caption "for being mentioned " pursuant to the order of this Court dated 3.7.2015 and made in CrI.R.C.No.98 of 2014 and in the presence of the above Counsel on either side, this Court made the following Order:-

<https://hcservices.ecourts.gov.in/hcservices/> This matter is listed today under the caption "for being mentioned" at the instance of the learned counsel for the revision petitioner.

2. It is brought to the notice of this Court that the offence complained against the revision petitioner/M.Arokiyaraj has been compounded as per the compromise entered into between the parties and based on that, this Court disposed of the Criminal Revision Case vide order dated 03.07.2015. Therefore, the learned counsel for the respondent/defacto complainant would submit that as per the order passed by this Court dated 04.03.2014 in M.P.No.1 of 2014, while granting suspension of sentence, the petitioner/accused had deposited a sum of Rs.2,00,000/- to the credit of S.T.C.No.4915 of 2011 on the file of the learned Judicial Magistrate No.I, Pollachi and that the respondent/defacto complainant may be permitted to withdraw the same from the Court deposit.

3. Considering the fact that the offence as against the revision petitioner has been compounded, the Court below is directed to refund the sum of Rs.2,00,000/- [Rupees two lakhs only] deposited by the revision petitioner/accused to the credit of S.T.C.No.4915 of 2011 on the file of the learned Judicial Magistrate No.I, Pollachi to the respondent/de facto complainant-V.M.R.Kumar @ Sivakumar on proper identification.

4. Accordingly, it is clarified.

5. Office is directed to issue fresh copy of this order to the learned counsel on either side.

vj2

07.08.2015

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The V District and Sessions Judge
Coimbatore

2. The Judicial Magistrate No.I
Pollachi

3.The Cheif Judicial Magistrate, Coimbatore.

4. The Superintendent, Central Prison,
Coimbatore.

+1 cc to Mr.M.N.Balakrishnan, Advocate, sr.33586

Cr1.R.C No. 98 of 2014