

Bail Slip

The Revision Petitioner/Accused hereby S.Velu S/o Sundaram was directed to be released on bail as per order of this Court dated 26/02/2010 and made in Mp.No.1/2010 in Crl.Rc.121/2010 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Revision Case No. 121 of 2010

1. Anand Textiles
represented by its Partner S. Velu
Son of Sundaramm
6/32, Ramasamy Gounder Lane
Erode
 2. S. Velu
Son of Sundaramm
6/32, Ramasamy Gounder Lane
Erode .. Petitioner/Accused
- Versus
- S.V. Arunachalam .. Respondent/Complainant

Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure against the Judgment dated 11.12.2009 made in Criminal Appeal No. 112 of 2009 on the file of Additional District Court (Fast Track Court No.1), Erode confirming the judgment dated 01.06.2009 passed in C.C. No. 437 of 2008 on the file of Judicial Magistrate No.3, Erode.

For Petitioner : Mr. A.K. Kumarasamy

ORDER

The respondent herein has filed C.C. No. 437 of 2008 before the trial Court under Section 138 of The Negotiable Instruments Act contending that on 10.09.2007, the second petitioner, for and on behalf of the first petitioner firm, has borrowed a sum of Rs.89,500/- from him. On the date of borrowal, the second petitioner has issued a cheque dated 18.10.2007 for Rs.89,500/- towards repayment of the loan amount. When the cheque was presented for encashment on 17.03.2008, it was dishonoured for the reason insufficient funds. Therefore, on 24.03.2008, the respondent has issued a statutory notice to the petitioners

calling upon them to repay the cheque amount. Even though the notice was received, the petitioners have not paid the amount or issued any reply notice.

2. The trial Court, upon consideration of the oral and documentary evidence concluded that the petitioners are guilty of commission of the offence punishable under Section 138 of The Negotiable Instrument Act. Accordingly, the trial Court imposed a fine amount of Rs.3,000/- on the first petitioner firm and directed it to be paid by the second petitioner. As far as the second petitioner is concerned, the trial Court sentenced him to undergo rigorous imprisonment for a period of one year with fine of Rs.1,000/- failing which to undergo 1 month simple imprisonment. The judgment passed by the trial court was confirmed by the Appellate Court in the appeal preferred by the petitioners in Criminal Appeal No. 112 of 2009 dated 11.12.2009. It is as against the concurrent decisions rendered by the courts below the present Criminal Revision Case is filed.

3. Even though the Criminal Revision Case is pending from 2010, till date, the respondent has not been served.

4. The learned counsel appearing for the revision petitioners confined his argument only with respect to reduction of sentence and not on merits. The learned counsel for the petitioners would submit that the petitioner company is prepared to pay the cheque amount of Rs.89,500/- to the respondent and prayed this Court to modify the conviction and sentence imposed on the petitioners. It is also brought to the notice of this Court that pending the Criminal Revision Case, as per the direction of this Court on 26.02.2010, the petitioner has deposited a sum of Rs.10,000/- to the credit of C.C. No. 437 of 2008.

5. Having regard to the above submission of the counsel for the petitioners that the petitioners are prepared to pay the cheque amount to the respondent, this Court is of the view that at this stage, no useful purpose would be served by sending the petitioners to jail. Further, the Criminal Revision Case is pending from the year 2010 and till date the respondent has not been served. Therefore, this Court is of the view that the sentence imposed on the petitioners can be modified in to one of payment of compensation. Accordingly, while upholding the conviction imposed on the petitioners for the offence punishable under Section 138 of The Negotiable Instruments Act, the sentence alone is modified in to one of payment of compensation. The petitioners are directed to pay Rs.80,000/- (Rupees Eighty Thousand Only) to the credit of C.C. No. 437 of 2008 on the file of Judicial Magistrate No.3, Erode or in the alternative pay the said sum directly to the respondent, within a period of four weeks from the date of receipt of a copy of this order. If the amount of Rs.80,000/- is deposited by the petitioners, as directed, the respondent shall withdraw the same as well as the amount of Rs.10,000/- already deposited by the petitioners during the pendency of

this Criminal Revision case. In default to pay the sum of Rs.80,000/- by the petitioners, the sentence imposed on them by the courts below shall stand restored. In such event, the trial court shall take steps as are necessary to secure the presence of the second petitioner to undergo the remaining period of sentence.

6. The Criminal Revision Case is partly allowed to the extent indicated above.

sd/-
ASSISTANT REGISTRAR(CO)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

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To

1. The Additional District Judge
(Fast Track Court No.I),
Erode
2. The Judicial Magistrate No.3
Erode
3. -do-The Chief Judicial Magistrate,
Erode
4. The Section Officer,
Criminal section,
High Court, Madras

+1 CC to Mr.A.K. Kumarasamy Advocate. SR.NO.49123

WEB COPY

Cr1.R.C. No. 121 of 2010

CO-MSM
JD 16/10/2015