

Bail Slip

The petitioner in CrI.R.C.1282 of 2010 i.e. P.Nanayanan (accused) was directed to be released on bail as per the order of this court dated 22.12.2010 and made in M.P.No.2 of 2010 in CrI.R.C.No. 1282 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1282 of 2010

P. Narayanan ...Petitioner/Appellant/Accused

Versus

Co-operative Housing Society  
Rasipuram  
represented by its Secretary  
C. Kuppuraj  
No.19, Sivan Kovil Street  
Rasipuram  
Namakkal District

...Respondent/Respondent/  
Complainant

Criminal Revision Case filed under Sections 397 read with Sec. 401 of Cr.P.C. against the Order dated 12.11.2010 passed in Criminal Appeal No. 51 of 2010 on the file of Principal Sessions Judge, Namakkal confirming the Judgment dated 11.09.2009 passed in S.T.C. No. 168 of 2008 on the file of Judicial Magistrate, Rasipuram

For Petitioner : Mr. R. Nalliyappan

For Respondent : Mr. M.S. Palanisamy

ORDER

The revision petitioner is the accused in S.T.C. No. 168 of 2008 on the file of the learned Judicial Magistrate, Rasipuram. The above said S.T.C. No. 168 of 2008 was filed by the respondent society

under Section 138 of The Negotiable Instruments Act contending that the revision petitioner borrowed a sum of Rs.1,50,000/- from the society and executed a mortgage deed. In order to repay the borrowed amount, he had issued a cheque for Rs.50,000/- towards part of the loan amount and when the cheque was presented for collection, it was returned with an endorsement "insufficient funds". The Society therefore issued a notice dated 28.11.2007 calling upon the petitioner to repay the cheque amount. In spite of receipt of notice, the accused/revision petitioner did not repay the cheque amount. In such circumstances, the Society has instituted the above S.T.C. No. 168 of 2008. The trial Court, after trial, concluded that the revision petitioner is guilty of committing the offence under Section 138 of the Negotiable Instruments Act. Therefore, by the judgment dated 11.09.2009, the trial Court convicted the revision petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.3,000/-. Such conviction and sentence imposed on the revision petitioner was confirmed by the appellate Court in the appeal filed by him in Criminal Appeal No. 51 of 2009 on 12.11.2010. It is against the aforesaid orders passed by the courts below the present revision is filed.

2. The learned counsel appearing for the revision petitioner confined his argument with respect to reduction of sentence and not on merits. According to the counsel for the petitioner, the petitioner is prepared to pay the cheque amount and therefore the sentence imposed on him may be reduced.

3. Per contra, the learned counsel for the respondent-society brought to the notice of this Court that the cheque was issued for discharge of portion of the debt availed by the petitioner from the society. The cheque was issued on 13.11.2007 and now seven years have lapsed. By reason of the non-payment of the loan amount, the society is prejudiced and could not collect the amount from the petitioner till date. Therefore, he prayed this Court to pass appropriate orders to pay compensation to the society while considering the question of sentence.

4. I heard the learned counsel for both sides. The counsel for the petitioner confined his argument only for reduction of sentence on the ground that the petitioner is now willing to pay the cheque amount to the society. In such view of the matter, instead of confirming the sentence imposed on the petitioner by the courts below, interest of justice would be met if the petitioner is directed to pay double the cheque amount to the petitioner. Accordingly, while upholding the conviction imposed on the petitioner, the sentence of one year imposed on him by the courts below is modified in to one of payment of compensation. The petitioner is therefore directed to pay a sum of Rs.1,00,000/- as

compensation to the respondent society within a period of four months from the date of receipt of a copy of this order. In the event of failure to pay the amount within the time stipulated above, the benefit of this order will not enure to the petitioner and the order passed by the courts below shall stand confirmed.

5. 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 Principal Sessions Judge  
Namakkal
2. The Judicial Magistrate  
Rasipuram
3. The Chief Judicial Magistrate,  
Namakkal. (For Information)

1CC to M.S. Palanisamy, Advocate SR 36442

Crl RC No.1282 of 2010

AD [CO]  
PSI 11.08.2015

सत्यमेव जयते

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