

Bail Slip

The petitioner/Accused namely Rajasekaran, S/o. Srinivasaperumal, was directed to be released on bail vide order dated 22.12.2010 made in Crl.M.P. No. 2 of 2010 in Crl.R.C. No. 1302 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1302 of 2010

Rajasekaran

...Petitioner/Accused

Versus

Lakshmi Finance
represented by its
Managing Partner Appusamy
Represented by Power Agent
Assistant Manager R. Selladurai
207, Salem Road
Namakkal

...Respondent/Complainant

Criminal Revision Case filed under Sections 397 (1) read with Sec. 401 of Cr.P.C. to set aside the Judgment dated 31.08.2010 passed in Criminal Appeal No. 31 of 2008 on the file of Additional District and Sessions Judge, Fast Track Court, Namakkal confirming the Judgment dated 07.07.2008 passed in S.T.C. No. 1136 of 2006 on the file of Judicial Magistrate No.1, Namakkal.

For Petitioner : Mr. B. Vasudevan

For Respondent : Mr. R. Saseetharan

ORDER

On 30.08.2014, the respondent has sanctioned a sum of Rs.2,25,000/- in favour of the petitioner as Hire Purchase loan for purchase of a lorry and on receipt of the same, the petitioner

agreed to repay the amount within 25 monthly instalments. The petitioner paid 4 such instalments and thereafter failed to pay the loan amount. On demand, the petitioner issued a cheque for Rs.2,50,000/- and when it was presented on 17.07.2006, it was dishonoured for the reasons "funds insufficient" with a memo dated 24.07.2006. The respondent issued a statutory notice dated 12.08.2006 calling upon the petitioner to repay the loan amount. Thereafter, the respondent filed the complaint in S.T.C. No. 1136 of 2006 before the trial Court. The trial Court, on appreciation of the material evidence on record, by the judgment dated 07.07.2008, convicted the 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 with fine of Rs.5,000/-, in default to undergo simple imprisonment for six months. Such conviction and sentence imposed on the petitioner was confirmed by the Appellate Court in the judgment dated 31.08.2010. The present Criminal Revision Case is filed against the concurrent decisions of the Courts below.

2. The learned counsel for the petitioner submits that he is not arguing the case on merits but confined his argument only for reduction of sentence. According to the counsel for the petitioner, for non-payment of the loan amount, the respondent has already seized the vehicle - lorry, which the petitioner purchased by utilising the hire purchase loan amount. Admittedly, the petitioner has paid 4 instalments out of 25 instalments. The learned counsel for the petitioner further submits that the petitioner is prepared to pay the cheque amount and prayed this Court to modify the sentence imposed by the Courts below.

3. Per contra, the learned counsel for the respondent would contend that the respondent is only intending to recover the cheque amount and sending the petitioner to imprisonment will not serve the purpose. Therefore, if the cheque amount is paid by the petitioner, then this Court can consider modifying the sentence.

4. I heard the counsel for both sides. As the revision petitioner/accused is prepared to pay the cheque amount and prays for reduction of sentence, for which the counsel for the respondent also has no objection, this Court is inclined to modify the sentence imposed on the petitioner. Accordingly, while upholding the conviction imposed on the petitioner by the courts below, the sentence alone is modified on condition the petitioner pays the cheque amount directly to the respondent or in the alternative to deposit it before the Trial Court to the credit of S.T.C. No. 1136 of 2006 within a period of three months from the date of receipt of a copy of this order. If the petitioner fails to pay the cheque amount within the time stipulated above, the order passed by the courts below shall stand restored. In such event, the trial Court shall take steps to secure the presence of the petitioner to undergo

the period of sentence imposed by it. Accordingly, the Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge
Fast Track Court,
Namakkal
2. The Judicial Magistrate No.1
Namakkal.
3. -Do- Through The Chief Judicial Magistrate,
Namakkal.

1 CC to Mr. B. Vasudevan, Advocate SR.No. 37078

1 CC to Mr. R. Saseetharan, Advocate SR.No. 37259

Crl. R.C.No. 1302 of 2010

RSI (CO)
PSI (08.09.2015)

सत्यमेव जयते

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