

BAIL SLIP

That the Accused viz namely V.Uthayakumar, be and hereby is released on bail on 23.12.2010 in MP.No.2/2010 in Crl.R.C.No.1317/10.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. No. 1317 of 2010

V. Uthayakumar .. Petitioner/Accused

Vs.

A. Mahalingam .. Respondent/Complainant

Criminal Revision Case filed under Sections 397 r/w. 401 of the Criminal Procedure Code, against the Judgment dated 19.10.2010 passed in Crl.A. No. 16 of 2010 on the file of the Additional District and Sessions Judge (Fast Track Court-I), Erode, confirming the judgment dated 12.11.2010 passed in C.C. No. 4 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Kodumudi.

For Petitioner : Mr. C.S. Saravanan

For Respondent : Mr. V.S. Kesavan

ORDER

On the basis of the complaint given by the respondent/complainant a case was registered against the petitioner/accused for the offences punishable under Section 138 r/w 142 of Negotiable Instruments. Ultimately, after trial, the Trial Court convicted the accused for the offence punishable under Section 138 r/w 142 of Negotiable Instrument Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.3,00,000/- to the complainant. Aggrieved by the same, the accused has filed Crl.A. No.16 of 2010 before the learned Additional District and Sessions Judge (Fast Track Court-I), Erode, and the same was dismissed, thereby, confirming the conviction and sentence imposed by the Trial Court. Aggrieved by the judgment passed by the Appellate Court, the petitioner has filed the present Criminal Revision Case.

2. The case of the prosecution is that on 14.10.2007, the accused owed Rs.3,00,000/- to the complainant, and in discharge of said liability, the accused issued Cheque No.262025 for Rs.3,00,000/-, dated 17.11.2007 in favour of the complainant. On 17.11.2007, when the cheque was presented for collection by the complainant, it was returned for "Funds Insufficient". The statutory notice was issued by the complainant to the accused on 29.11.2007. After receipt of notice, the accused did not pay the cheque amount within the time of

15 days. Hence, the complaint. After trial, the Trial Court has come to the conclusion that the charge against the accused was proved and convicted and sentenced to accused to undergo imprisonment as aforesaid. Aggrieved against the conviction and sentence of the Trial Court, the accused has preferred an appeal, which came to be dismissed confirming the conviction and sentence passed by the Trial Court. Hence, the accused has come forward with this Criminal Revision Case.

3. After some elaborate argument, Mr.C.S. Saravanan, learned counsel appearing for the petitioner/accused would submit that he is a retired person, however will try to settle the amount at the earliest and that though a huge amount has already been repaid, the same has been deducted only towards interest. He would further submit that he is willing to pay the entire balance cheque amount, therefore, the learned counsel for the petitioner prayed for showing leniency in reduction of sentence.

4. Mr.V.S. Kesavan, learned counsel appearing for the respondent/complainant would submit that the petitioner/accused has not repaid the cheque amount and that no amount has been paid from the year 2007.

5. Heard both sides and I have perused the materials on record.

6. Taking into consideration of the fact that the petitioner/accused is a retired employee of the Transport Corporation and is willing to pay the money, therefore, I am of the view that some leniency can be shown to the petitioner in reducing the sentence. Ofcourse, cheque is issued on 17.11.2007 and pending the case, he has not re-paid the cheque amount. Accordingly, while confirming the conviction imposed by the Courts below, the sentence alone is modified to the effect that the petitioner is directed to pay the cheque amount, viz., Rs.3,00,000/- as compensation instead of the imprisonment awarded by Court below, the said amount has to be directly paid by the accused to the complainant or deposited in the Court to the credit of C.C. No. 4 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Kodumudi, within a period of four months from today, failing which, and the respondent is at liberty to move the Lower Court and the judgment passed by the Appellate Court shall stand revived and the Lower Court shall take steps to secure the accused to undergo the remaining period of sentence.

7. With the above modification in sentence, the Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Additional District and Sessions Court
(Fast Track Court-I), Erode

2.The District Munsif cum Judicial
Magistrate Court, Kodumudi.

3.The Chief Judicial Magistrate, Erode.

+1 cc to Mr.C.S.Saravanan, Advocate,SR.29986.

Km(co)
krd 7/7

CRL.RC.No. 1317 of 2010
and
M.P. Nos. 1 and 2 of 2010



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