

Bail Slip

The petitioner/Accused namely Vatrivel, S/o. Vadivel, aged about 53 years, was directed to be released on bail as per the order of this court dated 23.12.2010 made in Crl.M.P.No. 2 of 2010 in Crl.R.C.No.1320 of 2010 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. No. 1320 of 2010

Vetrivel

....Petitioner/Accused

Versus

Bhogilal B.Parik

...Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code, against the Judgment dated 29.09.2010 passed in Crl.A. No.8 of 2010 on the file of the learned Additional Sessions Judge cum Fast Track Court-V, Chennai, confirming the order dated 21.01.2010 passed in S.T.C. No. 1512 of 2007 on the file of the learned Special Metropolitan Magistrate cum XI Small Causes Court, Chennai.

For Petitioner : Mr. T.R.Ravi

For Respondent : M/s. Narottam Jain
& N.Gyanchand Jain

ORDER

On the basis of the complaint given by the respondent/complainant a case was registered against the petitioner/accused for the offence punishable under Section 138 of Negotiable Instruments Act. Ultimately, after trial, the Trial Court convicted the accused for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo two months simple imprisonment and to pay a compensation of Rs.55,600/- to the complainant. Aggrieved by the same, the accused has preferred Crl.A. No.8 of 2010 before the learned Additional Sessions Judge-cum-Fast Track Court-V, Chennai-1, and the same was dismissed, thereby, confirming the judgment of conviction and sentence passed 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 27.09.2004, the accused borrowed a sum of Rs.52,500/- from the complainant agreeing to repay with interest at 24% p.a., and in partial discharge of the said liability, the accused issued Cheque No.003754 for Rs.55,600/-, dated 18.10.2005 in favour of the complainant. On 10.11.2005, when the cheque was presented for collection by the complainant, it returned for "Funds Insufficient". The statutory notice was issued by the complainant to the accused on 05.12.2005. After receipt of notice, the accused neither sent a reply nor paid 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 the accused to undergo imprisonment as aforesaid. Aggrieved against the judgment of conviction and sentence passed by the Trial Court, the accused has preferred Crl.A.No.8 of 2010 before the Appellate Court, which came to be dismissed confirming the judgment of conviction and sentence passed by the Trial Court. Hence, the accused has come forward with this Criminal Revision Case.

3. Mr.T.R.Ravi, learned counsel appearing for the petitioner/accused would submit that even during the pendency of the case, he has paid a sum of Rs.6,000/- to the respondent/complainant and the same is endorsed before the Trial Court. He would further submit that the accused is willing to pay the balance of the cheque amount, therefore, he pleaded for showing leniency in reduction of sentence.

4. Mr.N.Gyanchand Jain, learned counsel appearing for the respondent/complainant would submit that the petitioner/accused has not paid the full amount borrowed by him. He would further contend that as per the Trial Court record, a sum of Rs.6,000/- has been received by the complainant and the balance amount is yet to be paid by the accused. He would further add that the respondent/complainant is now aged 86 years and he is in dire need of money.

5. Heard both sides and I have perused the materials on record. By consent, the main Criminal Revision Case itself is taken up for final disposal.

6. Taking into consideration of the submission made by the learned counsel for the petitioner that the petitioner/accused is willing to pay back the cheque amount, apart from that, the cheque was issued on 18.10.2005 and pending the case, the accused has paid a sum of Rs.6,000/- before the Trial Court, I am of the view that some leniency can be shown to the petitioner in reducing the sentence. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone is modified to the effect, the petitioner/accused is directed to pay double the cheque amount, viz., Rs.1,11,200/- as compensation, instead of the imprisonment and compensation awarded by the Appellate Court, out of which, since, it is represented that a sum of Rs.6,000/- has already been paid; that has to be deducted, then, it will come to Rs.1,05,200/-. The said

amount of Rs.1,05,200/- (Rupees One Lakh Five Thousand and Two Hundred only) has to be directly paid by the petitioner/ accused to the respondent/complainant within a period of four weeks from today, failing which, the judgment passed by the Appellate Court shall stand revived and the respondent/complainant is at liberty to approach the Trial Court, which shall take steps to secure the accused to undergo the remaining period of sentence.

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

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

paa

To

1. Additional Sessions Judge
cum Fast Track Court-V,
Chennai.
2. The Special Metropolitan Magistrate
cum XI Small Causes Court, Chennai.

1 CC to Mr. T.R.Ravi, Advocate SR.No. 29749

2 CCs to M/s. Narottam Jain, Advocate SR.No. 29321

Cr1.R.C.No.1320 of 2010

SAI (CO)
PSI (23.06.2015)

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