

BAIL SLIP

The Petitioners/Accused viz.,

1. M/s.Coonoor Share Services
Office at No.127
N.K.N.Complex, Mount Road
Coonoor-1
rep. by M.Ranjith (A1)

2. M.Ranjith (A2)
in both petitioners were directed to be released on bail by the order
of this Court dated 26.03.2010 and 30.03.2010 in M.P.No.2 of 2010 in
Crl.R.C.No.277 of 2010 and M.P.No.2 of 2010 in Crl.R.C.No.278 of 2010
respectively.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case Nos.277 and 278 of 2010

1. M/s.Coonoor Share Services
Office at No.127
N.K.N.Complex
Mount Road
Coonoor-1
rep. by M.Ranjith

2. M.Ranjith, M/A-50 years
S/o.Manoharlal
Proprietor
M/s.Coonoor Share Services
No.127, N.K.N.Complex
Mount Road
Coonoor.

... Petitioners in both revisions
(Accused)

Versus

Abdulla Zackria

... Respondent in both revisions
(Complainant)

Criminal Revision Cases filed under Sections 397 and 401 of
Cr.P.C. against the judgments dated 25.02.2010 made in C.A.Nos.80 and
79 of 2005 on the file of the learned Sessions Judge,
Udhagamandalam, Nilgiris District, confirming the judgments of
conviction and sentence imposed by the learned Judicial Magistrate,
Coonoor in S.T.R.Nos.2111 and 2110 of 2002, dated 25.10.2005.

For Petitioners : Mr.V.Purushothaman
in both revisions

For Respondent : Mr.S.Kalyanaraman
in both revisions

COMMON ORDER

The case of the respondent/complainant is that in a business transaction between the complainant and accused, a settlement is arrived at between them and according to the settlement, the accused are liable to pay a sum of Rs.1,45,000/- and Rs.75,000/- respectively to the complainant and towards the first and second instalment, the second accused in his capacity as Proprietor of the first accused Proprietorship concern, issued a cheque for Rs.70,000/- and Rs.75,000/- respectively. The complainant presented the cheques for encashment and it returned due to insufficient funds. The complainant issued legal notices, for which, the accused did not respond. Hence, the complaint. After trial, the petitioners/accused were convicted by the learned Judicial Magistrate, Coonoor, in S.T.R.Nos.2111 and 2110 of 2002, by judgment dated 25.10.2005, for an offence under Section 138 of the Negotiable Instruments Act and sentenced the second accused to undergo simple imprisonment for one month in each case and to pay a sum of Rs.65,000/- and Rs.15,000/- respectively as compensation. The first accused is the proprietary concern and hence, no punishment is given to first accused separately. Challenging the same, the petitioners/accused have preferred Criminal Appeal Nos. 80 and 79 of 2005 before the learned Sessions Judge of Udhagamandalam at Nilgiris District, which were dismissed, thereby, confirming the conviction and sentence imposed by the Trial Court. As against the same, the accused have filed the present Criminal Revision Cases.

2.Today, when the matters are taken up, Mr.V.Purushothaman, learned counsel appearing for the petitioners/accused would submit that he is not arguing the matters on merit but he is confining his argument only on the question of sentence imposed on the petitioners/accused by the Appellate Court. He would further submit that the second accused has paid/deposited some money and he is prepared to deposit the balance amount before the Trial Court.

3. Mr.S.Kalyanaraman, learned counsel appearing for the respondent would submit that in CrI.R.C.No.277 of 2010, the cheque amount is Rs.70,000/- and the compensation amount is Rs.65,000/- = Rs.1,35,000/-. Out of which, the second accused has paid Rs.25,000/- to the complainant after institution of the complaint. After the pronouncement of the judgment by the Appellate Court judgment, the second accused has deposited a sum of Rs.9,000/- before the Trial Court. After deducting the amount paid and amount deposited, the amount payable by the second accused comes to Rs.1,01,000/-. In CrI.R.C.No.278 of 2010, the cheque amount is Rs.75,000/-, of which, the second accused has already paid Rs.65,000/- to the complainant

after institution of the complaint and the compensation amount of Rs.15,000/- was also deposited before the Trial Court and thus, in the second case, a balance sum of Rs.10,000/- has to be paid by the second accused to the complainant. Thus, in both cases, totally a sum of Rs.1,11,000/- (Rs.1,01,000/- + Rs.10,000/-) is liable to be paid by the second accused to the complainant.

4. Heard both sides. By consent, both Criminal Revision Cases are taken up for final disposal.

5. Taking into consideration of the fact that the learned counsel for the petitioners/accused is not arguing the matter on merits but he is confining his argument only on the question of sentence imposed on the second accused by the Appellate Court, apart from that the second petitioner/second accused is willing to pay back the cheque amount and also the compensation amount and also considering the fact that already some amount has been paid/deposited by the second accused, I am of the view that some leniency can be shown to the second petitioner/second accused in reducing the sentence. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone in both cases is modified to the effect directing the second petitioner/second accused to deposit the balance cheque amount and compensation amount of Rs.1,11,000/- (Rupees One Lakh and Eleven Thousand only) totally in both cases as compensation, instead of the imprisonment awarded by the Appellate Court. Out of the said amount of Rs.1,11,000/-, Rs.1,01,000/- has to be deposited by the second petitioner/ second accused to the credit of S.T.R.No. 2111 of 2002 and Rs.10,000/- has to be deposited to the credit of S.T.R.No.2110 of 2002 on the file of the learned Judicial Magistrate, Coonoor, within a period of four weeks from the date of receipt of a copy of this order, failing which, the judgments 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 in each case. On such deposit being made, the complainant is permitted to withdraw the same from the Trial Court by filing appropriate applications before the Trial Court.

6. With the above modification in sentence, these Criminal Revision Cases are partly allowed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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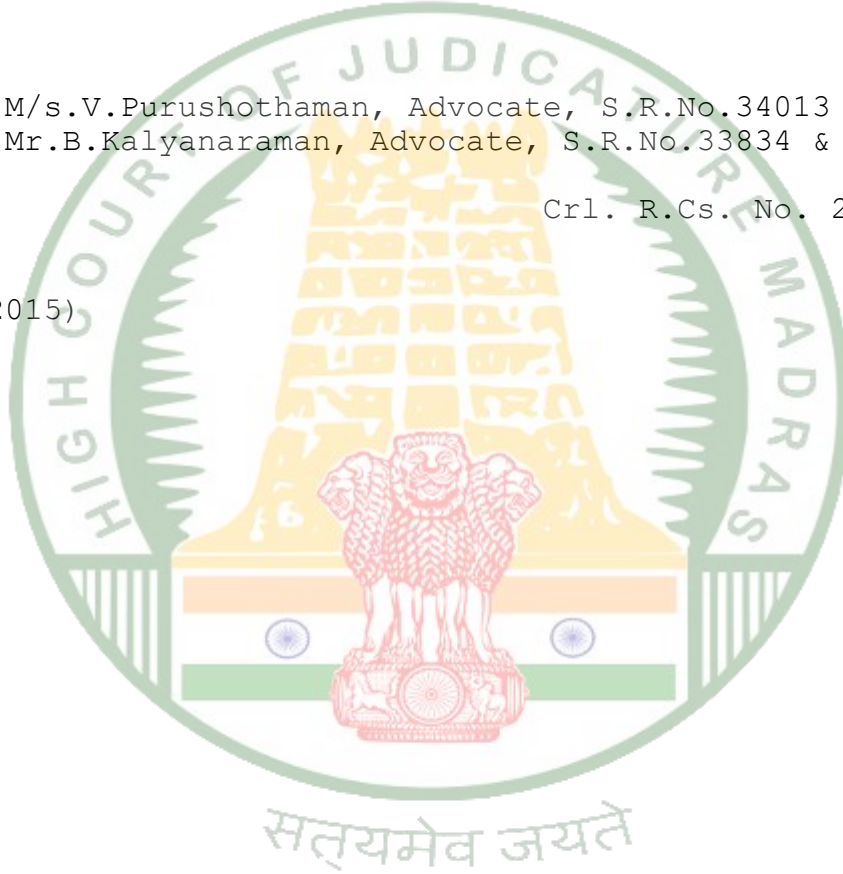
To

1. The Sessions Judge,
Udhagamandalam,
Nilgiris District.
2. The Judicial Magistrate,
Coonoor.
3. -do- Through The Chief Judicial Magistrate,
Nilgiris at Udhagamandalam.

+2cc's to M/s.V.Purushothaman, Advocate, S.R.No.34013 & 34014
+2cc's to Mr.B.Kalyanaraman, Advocate, S.R.No.33834 & 33835

Cr1. R.Cs. No. 277 & 278 of 2010

SK(CO)
CA(28/07/2015)



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