

BAIL SLIP

The Petitioner/Accused namely S.Sridhar, s/o.Shanmugam, aged about 44 years, was directed to be released on bail as per the order of this Court dated 16.2.2009 in Crl.M.P.No.1 of 2009 in Crl.R.C.No.199 of 2009 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.6.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.199 of 2009

S.Sridhar .. Petitioner/Accused

vs

M.Subramanian .. Respondent/Complainant.

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the judgment and conviction dated 16.12.2008 made in C.A.No.249 of 2008 on the file of the I Additional Sessions Judge, Erode confirming the judgment and Conviction dated 07.8.2008 made in C.C.No.144 of 2007 on the file of the Judicial Magistrate No.I, Erode and praying to set aside the same.

For Petitioner : No Appearance
For Respondent : No Appearance

ORDER

No representation for the petitioner / accused as well as for the respondent/ complainant. Even in the year 2009, this Court directed the petitioner to take private notice to the respondent. But till date, no notice was taken. AOS also not filed. Hence, as per the judgment of the Hon''ble Apex Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka], if the petitioner do not appear, there is no necessity for the Court, which is hearing the matter, to issue warrant for special notice or appoint any Amicus Curiae to argue the matter on behalf of the petitioner. The Court is empowered to deal with the matter on merits and dispose of the same. Accordingly, this matter is taken up for disposal on merits.

2. The complainant preferred a private complaint under Section 138 of Negotiable Instrument Act alleging that the accused borrowed a sum of Rs.4,50,000/- as hand loan from him and in order to discharge the said debt, the accused issued a cheque dated 12.2.2007. When the cheque was presented, it was returned with an endorsement '

insufficient funds'. Hence, the complainant sent a legal notice on 16.2.2007 asking the accused to pay the amount. Since, the accused did not pay back the money and has not chosen to send any reply, the complainant preferred a complaint under Section 138 of N.I. Act and the same was taken on file by the learned Judicial Magistrate No.1, Erode in C.C.No.144 of 2007. After due trial, by judgment dated 07.8.2008, the learned Magistrate convicted the petitioner/accused under Section 138 of NI Act and sentenced him to undergo one year Simple Imprisonment and to pay a fine of Rs.3,500/- in default, to undergo one month simple imprisonment. Against which, the accused preferred a Criminal Appeal No.249 of 2008 and the same was also dismissed by the learned I Additional Sessions Judge, Erode by confirming the conviction and sentence passed by the trial Court. Aggrieved over the said judgment, the accused has preferred this Revision.

3. The petitioner, in the grounds of revision, has stated that the complainant, namely, P.W.1, has not examined any other witness to corroborate his case. It is also stated in the memorandum of grounds that the petitioner has clearly established before the trial Court that there was no existing liability with the respondent/ complainant and that in the course of cross examination, the petitioner has clearly proved that the alleged cheque was not issued by him. Therefore, the conviction and sentence imposed by the Courts below are not correct.

4. Since no notice was served by the petitioner, none appears for the respondent.

5. I have perused the entire materials available on record.

6. On a perusal of the order passed by the Court below, it is seen that the petitioner / accused has not even sent a reply to the statutory notice issued by the respondent. During cross examination, the respondent/complainant has stated that he was acquainted with the accused for the past 4 or 5 years. The respondent/complainant further admitted that he had no other financial dealing with the accused except P.1. The suggestion that the complainant and the accused were running a fish farm was also denied by the complainant. From the suggestion made, it is very clear that the accused himself has admitted the issuance of cheque. Further, the petitioner / accused has neither given evidence on his side nor marked any document to substantiate his case. Therefore, both the Courts below have rightly held that the petitioner/ accused has not proved his case beyond reasonable doubt. Further, the sentence imposed on the petitioner is very reasonable.

7. In such circumstances, I do not find any reason to interfere with the reasoned order of the Courts below.

In the result, this Criminal Revision Case is dismissed.
Consequently, connected miscellaneous petition is closed.

ga

s/d-
Deputy Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. I Additional Sessions Judge, Erode
2. The Judicial Magistrate No.I, Erode
3. The Chief Judicial Magistrate,
Erode, (for Information)

sr(co)
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Crl.R.C.No.199 of 2009



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