

BAIL SLIP

The Appellant/Accused namely Annamalai S/o.Natesan was directed to be released on bail as per Order of this Court dated 12.05.2009 and made in Crl.OP.No.1 of 2009 and 1 of 2009 and made in Crl.R.C.No.349 and 350 of 2009 on this file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.6.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case Nos.349 and 350 of 2009
and
MP.Nos. 1 and 1 of 2009

Annamalai Petitioner in both the petitions

vs

Mary Mahendiran Respondent in Crl.RC.No.349 /09
Priya Respondent in Crl.RC.No.350 /09

Revision Petitions filed under Sections 397 read with Sec. 401 of Cr.P.C. against the judgment dated 12.12.2008 made in C.A.Nos.46 of 2006 and 47 of 2006 on the file of the Additional District Sessions Judge, Vellore (Fast Track Court II, Ranipet) and confirming the judgment dated 30.01.2006 imposed on the petitioner made in C.C.Nos.125 of 2000 and 123 of 2000 on the file of the Judicial Magistrate Court No.II, Walajah sentencing to undergo 12 months simple imprisonment and imposed fine amount of Rs.9,53,000/- and Rs.6,86,000/- respectively as compensation and in default to undergo 3 months imprisonment.

For Petitioner in both petitions : Mr.P.Krishnan

For Respondent in both petitions : Mr. A.Abdul Rahim

COMMON ORDER

These revision petitions have been filed against the judgment dated 12.12.2008 made in C.A.Nos.46 of 2006 and 47 of 2006 respectively on the file of the Additional District Sessions Judge, Vellore (Fast Track Court II, Ranipet) and confirming the judgment dated 30.01.2006 imposed on the petitioner made in C.C.Nos.125 of 2000 and 123 of 2000 respectively on the file of the Judicial Magistrate Court No.II, Walajah sentencing to undergo 12 months simple imprisonment and imposed fine amount of Rs.9,53,000/- and

Rs.6,86,000/- respectively as compensation and in default to undergo 3 months imprisonment.

2. Both the revision petitions are taken up together. Though the petitioner challenges the judgment of conviction and sentence imposed by the Courts below, he has not appeared before this Court. This Court, by order dated 04.7.2014, recalled the order of suspension granted by this Court on 12.5.2009 as the learned counsel for the petitioner has reported that he was unable to contact the petitioner. Since the petitioner has not been arrested, this Court, by order dated 03.6.2015, directed the office to issue Non-Bailable Warrant through Public Prosecutor so as to arrest the accused and produce him before this Court by the jurisdictional police.

3. Today, when the matter is taken up, the learned Government Advocate reported before this Court that the petitioner has sold his house, wherein he resided, and left the place and now his whereabouts are not known. The learned counsel for the petitioner also submitted that he is unable to contact him and he has no instructions. 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.

4. The main ground raised in these revision petitions is that out of the total amount, the petitioner has paid a sum of Rs.2,00,000/- and Rs.3,25,000/- in respect of C.C.Nos.125 of 2000 and 123 of 2000 respectively, during the pendency of the proceedings but the lower appellate Court, without considering the bonafide of the petitioner, has simply confirmed the judgment passed by the trial Court, which is arbitrary and not sustainable in law. In the grounds of revision, it is also stated that the sentence of 12 months Rigorous imprisonment and to pay cheque amount as compensation is highly arbitrary and excess.

5. The learned counsel for the respondents submitted that the cheque amounts are admitted. According to the respondents, in the reply, even on 02.2.2000, the petitioner/accused has specifically admitted regarding the handing over of the cheques. The petitioner/accused in the reply, has also admitted the liability. It is also submitted that the petitioner/accused has not chosen to let in any evidence to prove his case. In fact, before the Courts below, the only argument made by the petitioner's counsel was with regard to part payment for which also, the petitioner has not produced any receipt. Therefore, both the Courts below have rightly held that the petitioner is liable to pay. Since the petitioner has not paid the amount, the Courts below have rightly convicted him.

6. Heard the learned counsel for the respondents and perused the materials available on record.

7. On a careful reading of the entire papers, it is very clear the revision petitioner in both the cases is the accused and he has admitted the transaction. In fact, the only ground raised in these petitions is that he paid the portion of the amount. However, he has not produced any receipts to prove the same. No where, the petitioner denied about the issuance cheque or transaction took place between him and the respondents. Therefore, the presumption is in favour of the respondents/complainant.

8. However, the respondents /complainants fairly admitted about the part payment of Rs.2,00,000/- in respect of C.C.No.125 of 2000 and Rs.3,25,000/- in respect of C.C.No.123 of 2000. However, balance amount is due and payable by the petitioner. Therefore, the Courts below have rightly convicted the petitioner. Further, the sentence imposed on the petitioner is also very reasonable.

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

In the result, the Criminal Revision Cases are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District cum Sessions Judge,
(Fast Track Court II,) Ranipet, Vellore
2. The Judicial Magistrate Court No.II,
Walaja, Vellore District

+1cc to Mr.A.Abdul Rahim, Advocate, S.R.No.31558

Cr1.R.C.No.349 and 350 of 2009

AD(CO)
CA(29/07/2015)