

BAIL SLIP

The Petitioner / Accused namely M.S.Udaya Kumar was directed to released on bail vide order dated 13.05.2010 made in Crl.M.P.No.2 of 2010 [2 M.Ps] in Crl.R.C.Nos.504 and 505 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.6.2015

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Crl.R.C.Nos.504 and 505 of 2010

M.S.Udaya KumarPetitioner in both the
Revision/Accused

versus

M/s.Weizmann Forex Ltd.,
rep. By its Senior Manager J.Venkataraman Respondent in both
the Revision/Complainant

Criminal Revisions filed against the judgment in C.A.Nos.142 & 143 of 2009, on the file of the II Additional Sessions Judge, Chennai, confirming the judgment and sentence in C.C.Nos.6729 and 7228 of 2006 passed by the XIII, Metropolitan Magistrate, Egmore, Chennai 8.

For petitioner : No appearance

For respondent : No appearance

COMMON ORDER

The petitioner has come forward with these revisions challenging the judgments in C.A.Nos.142 and 143 of 2009, on the file of the II Additional Sessions Judge, Chennai, whereby the petitioner was convicted for offence under Section 138 Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and to pay a compensation of Rs.3,56,350/- and Rs.4,46,000/-.

2. When the criminal revisions were taken up for hearing, the learned counsel for the petitioner was absent. The petitioner was also absent. It is seen that the petitioner has not even complied with the condition imposed by this Court at the time of suspending the sentence. This Court, by order dated 23.3.2015, directed the police to arrest the petitioner and commit him to custody. But the police have reported that the petitioner is not available in the known address. By order dated 10.4.2015, this Court issued non bailable warrant against the petitioner. When the matter was taken up for hearing on 2.6.2015, the Inspector of Police submitted that the whereabouts of the petitioner was not known and that he was taking effective steps to arrest the accused. On going through the records, it is seen that even at the time of passing judgment before the First Appellate Court, he did not appear. Warrant has been issued. Even then, he has not come. However, conveniently, he has filed this criminal revision and got his sentence suspended.

3. As per the judgment of the apex Court reported in 2013 (3) SCC 721, K.S.Panduranga vs. State of Karnataka, if the party did not appear there is no necessity for the Court to issue warrant or special notice or appoint an amicus curie to argue the case on his behalf and the Court is empowered to deal with the matter on merits and dispose of the same.

4. The only ground raised in the memorandum of grounds in both the revision petitions is that the complainant has failed to prove the liability of the petitioner and the lower Appellate Court has also not taken into consideration the rebuttal of the evidence adduced by the petitioner.

5. The learned counsel for the respondent is absent. The respondent is also not present.

6. I have gone through the records. On a careful consideration of the entire evidence and the judgments of the Courts below, it is seen that the petitioner has not even sent a reply to the legal notice sent by the respondent. Further, the First Appellate Court has pointed out that when the petitioner has accepted issuance of cheque, the initial presumption is on him that he did not honour his commitment. In fact, the lower court has also pointed out that the complaint lodged before the Commissioner of Police on 18.4.2006 itself shows that the accused was acting as a mediator, bringing customers of M/s.Neo Corporation and M/s.Western Logistics Tours and Travels and based on the representation of one Christopher and the petitioner herein, 18,000 US \$ had been handed over to one Christopher. Exs.D-1 and D-2 had been handed over to Christopher on 31.1.2006, 2.2.2006 and 6.2.2006 and as a mediator, it was the

accused who received 18,000 US \$. But the accused has signed as Christopher and a presumption is raised that the accused did not handover 18000 US \$. Conveniently, he did not even give reply. Therefore, I do not see any reason to interfere with the order of the Courts below.

7. This criminal revision is dismissed. The lower court is directed to secure the custody of the petitioner and carry out the sentence as awarded.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The II Additional Sessions Judge,
Chennai

2.The XIII,
Metropolitan Magistrate,
Egmore, Chennai 8

3.The Public Prosecutor,
Madras High Court

4.The Chief Metropolitan Magistrate,
Egmore, Chennai.

Cr1.R.C.Nos.504 and 505 of 2010

RSI (CO)
CA(04/08/2015)

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