

BAIL SLIP

The Petitioner/Accused viz., M.Raju was directed to be released on bail in M.P.No.1 of 2008 in CrI.R.C.No.1628 of 2008 dated 09.01.2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1628 of 2008

M. Raju ... Petitioner

Versus

M. Vadivel ... Respondent

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code against the Judgment dated 29.11.2008 made in Criminal Appeal No. 187 of 2008 on the file of the Additional District Court/Fast Track Court No.I, Erode confirming the conviction imposed in the Judgment dated 15.05.2008 made in C.C. No. 1067 of 2006 on the file of Judicial Magistrate No.I, Erode.

For Petitioner : Mr. N. Manokaran

For Respondent : No appearance

ORDER

The respondent herein has filed C.C. No. 1067 of 2007 against the revision petitioner herein under Section 138 of the Negotiable Instrument Act contending that on 05.06.2006, the revision petitioner has borrowed a sum of Rs.1,00,000/- from him and for repaying the same, he has issued a cheque dated 05.08.2006 for Rs.1,00,000/-. According to the respondent, when the cheque was presented for collection, it was dishonoured on 18.08.2006 for want of funds. Therefore, on 26.08.2006, the respondent had issued a statutory notice to the petitioner and it was also received by the revision petitioner on 04.09.2006. Even after receipt of the statutory notice, the revision petitioner neither sent any reply nor paid the amount. The trial court, after completion of trial, passed a judgment dated 15.05.2008 convicting the revision petitioner under Section 138 of The Negotiable Instruments Act and sentenced him to undergo simple imprisonment for one year together with fine of Rs.3,000/-, in default, he was directed to undergo one month simple imprisonment. The appeal filed thereagainst in CrI.A. No. 187 of 2008 was also dismissed, hence, the present Criminal Revision Case.

2. Even though notice was ordered to the respondent and served, none appears for the respondent.

3. The learned counsel appearing for the petitioner did not argue the case on merits but confined his argument for reduction of sentence. The learned counsel for the petitioner submits that the revision petitioner is prepared to pay the cheque amount of Rs.1,00,000/- and on such payment, he may be shown leniency in the matter of sentence.

4. It is seen from the records that the revision petitioner issued the cheque in question on 05.08.2006 and now 8 years have passed. At this stage, no useful purpose will be served to sentence the revision petitioner to jail. On the other hand, I am of the view that if the revision petitioner is directed to pay double the cheque amount the respondent will be benefitted and such amount can be ordered to be paid by the revision petitioner as compensation. Therefore, in lieu of sentence, the revision petitioner shall be directed to pay double the cheque amount i.e., Rs.2,00,000/- to the respondent which would meet the ends of justice.

5. Accordingly, the judgment of conviction and sentence passed by the Courts below are set aside on the petitioner paying the sum of Rs.2,00,000/- (Rupees Two Lakh Only) directly to the respondent within a period of three months from the date of receipt of a copy of this order. If the petitioner fails to pay the amount within the time stipulated, the order passed in this Criminal Revision Case will not enure to his benefit and in such event, the orders passed by the courts below will be revived. In such event, the trial court shall take necessary steps as are necessary to secure the presence of the petitioner to undergo the remaining period of sentence.

6. Subject to the above modification with respect to sentence, the Criminal Revision Case is partly allowed.

Sd/-

Assistant Registrar(J)

//True Copy//

rsh
To

Sub Assistant Registrar

1. The Additional District Judge,
Fast Track Court No.I, Erode

2. The Judicial Magistrate No.I, Erode.

+1cc to M/s.N. Manokaran, Advocate, S.R.No.27742

CrI.R.C No. 1628 of 2008

MP(CO)
CA(10/07/2015)