

BAIL SLIP

That the Petitioner/Accused viz., S.Murgesan in all the Crl.RC.Nos.1654, 1655 & 1656 of 2008 was directed to be released on bail as per the order of this Court dated 31.12.2008 and made in M.P.Nos.1, 1 & 1 of 2008 in Crl.R.C.Nos.1654, 1655 and 1656 of 2008 etc., as stated within.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.6.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN
CRL. RC. Nos. 1654 to 1656 of 2008

S.Murugesan .. Accused/Petitioners in all revision

Versus

M/s. Lakshmi Ganesha Textiles Ltd.,
Rep.by its Account Officer
R.Krishnamoorthy
New No.442, Old No.1334
Amugraha Illam, Avinashi Road
Peelamedu
Coimbatore - 4

.. Complainant/Respondent in all revision

Petitions filed under Sections 397 read with 401 of the Criminal Procedure Code, against the Judgments dated 28.11.2008 passed in Crl.A. Nos. 483 of 2007; 484 of 2007 and 485 of 2007 respectively on the file of the Additional District and Sessions Judge (FTC-III) Coimbatore, confirming the Judgments dated 03.10.2007 passed in C.C. Nos. 773 of 2001; 399 of 2002 and 401 of 2002 on the file of the learned Judicial Magistrate No.6, Coimbatore.

For Petitioner in all cases : Mr.S.Gunalan

For Respondent in all cases : No Appearance

ORDER

These revisions have been filed against the Judgments dated 28.11.2008 passed in Crl.A. Nos. 483 of 2007; 484 of 2007 and 485 of 2007 respectively on the file of the Additional District and Sessions Judge (FTC-III) Coimbatore, confirming the Judgments dated 03.10.2007 passed in C.C. Nos. 773 of 2001; 399 of 2002 and 401 of 2002 on the file of the learned Judicial Magistrate No.6, Coimbatore.

2. The case of the complainant is that in the course of business transaction between the complainant and the accused, the accused borrowed sum of Rs.7,00,000/- in each cases (total sum of Rs.21,00,000) and in order to discharge the same, he issued cheques

on various dates and when the said cheques were presented for encashment, the same were returned dishonoured on the ground of insufficiency of funds in the bank account. Therefore, legal notices were issued to the accused. Since no payment was made even thereafter, the complainant has filed the present complaint for the offences punishable under Section 138 of the Negotiable Instrument Act and the same were taken cognizance in C.C. Nos. 773 of 2001; 399 of 2002 and 401 of 2002 respectively on the file of the learned Judicial Magistrate No.6, Coimbatore. Ultimately, after trial, the trial court convicted the accused for the offences punishable under Section 138 of the Negotiable Instrument Act and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs. 3,000/- in each case and in default to undergo Simple imprisonment for a period of three months. Aggrieved by the same, the accused has filed CrI.A. Nos.483 of 2007; 484 of 2007 and 485 of 2007 respectively before the learned Additional District and Sessions Judge (FTC-III) Coimbatore and the same were dismissed by confirming the judgment of the trial Court. Aggrieved by the order passed by the first appellate Court, the petitioner has filed the present Criminal Revision Cases.

3. The learned counsel appearing for the petitioner/accused did not argue on merits but confined his argument only on the question of sentence imposed on the petitioner by the courts below. The learned counsel for the petitioner submits that the petitioner/accused is only a broker and cheques were issued to the complainant in blank form as security and the petitioner has also issued signed blank letter pads and signed blank papers to the complainant and the same were misused by him. The learned counsel further submitted that the petitioner is the only a bread winner of the family and he is now willing to pay the entire cheque amount and, therefore, the learned counsel for the petitioner prayed for showing leniency in reduction of sentence.

4. Though private notice was served on the respondent, none appears on behalf of him. I have perused the materials available on record.

5. The trial court convicted the petitioner/accused for the offences punishable under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months Simple Imprisonment and to pay a fine of Rs.3000/- in each cases and in default to undergo simple imprisonment for a period of three months.

6. Though it is the contention of the petitioner that he is only a broker and that he has not earned anything out of the amount received and that he has issued the cheques only for the purpose of security, he has not produced any records to prove the same. Further, the petitioner has not chosen to give evidence to substantiate his contention that the cheques were given only for the purpose of security. Mere denial by the accused that blank signed cheques were issued to the complainant as security and those cheques were misused by him, cannot be sustained in the absence of any acceptable evidence.

7. However, taking into consideration the submission made by the learned counsel for the petitioner that the petitioner is the only bread winner of the family and also considering the submission that he is only a broker and has not earned anything out of the amount, and the fact that the petitioner is willing to settle the amount, I am of the view that instead of sending him jail, he may be directed to pay the amount as compensation. Accordingly, while confirming the conviction imposed by the Courts below, the sentence is modified to that of payment of compensation to the tune of Rs.11,20,000/- (Rupees eleven lakhs and twenty thousand only) in respect of all the cheques. The petitioner is directed to pay the consolidated amount Rs.11,20,000/- to the complainant within a period of four months from the date of receipt of a copy of this order. It is made clear that if the petitioner fails to pay the said amount within the above stipulated period, he shall undergo the period of sentence as imposed by the Courts below and this order will not enure to the benefit of the accused. The petitioner is directed to file an undertaking affidavit before this Court within a period of ten days from the date of receipt of a copy of this order to that effect.

With the above direction and modification in sentence, the Criminal Revision Cases are partly allowed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge
(FTC-III) Coimbatore.

2.-do- thro the Principal Sessions Judge, Coimbatore.

3. The Judicial Magistrate No.6, Coimbatore.

4.-do- Thro the Chief Judicial magistrate, Coimbatore.

5.The District Collector, Coimbatore.

6.The Public prosecutor, High Court, Madras.

Copy To: The Section officer, Criminal Section, High Court, Madras
(For watching filing of the affidavit of undertaking)

3 cc to Mr. .S.Gunalan, Advocate Sr.No.28014, 28015 & 28015

CRL.RC.Nos.1654 to 1656 of 2008

ug(co)

pmk 9.7.2015

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