

Bail Slip

That the Appellant herein/Accused Viz. BalaSubramaniam, S/O.Subbu Iyer was directed to be released on Bail as per order of this Court dated 31.12.2008, made in MP.NO.1/08 in CrI.RC.No.1677/2008 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1677 of 2008

Balasubramaniam .. Petitioner

Versus

Ganesh .. Respondent

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the Judgment dated 15.11.2008 made in Criminal Appeal No.156 of 2008 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.II, Coimbatore, confirming the order dated 05.05.2008 made in C.C. No. 130 of 2005 on the file of the Judicial Magistrate No.II, Pollachi.

For Petitioner : Mr. M.N.Balakrishnan

ORDER

The case of the respondent/complainant is that on 15.02.2004, the petitioner/accused borrowed a sum of Rs.33,000/- as handloan from the complainant agreeing to repay the same with interest at the rate of 12% within a month. On 31.08.2004, when the complainant approached the accused, the accused is alleged to have given a cheque for a sum of Rs.33,000/-. When the complainant presented the cheque for collection on 04.09.2004, the same returned with an endorsement "Account Closed". Hence, the complainant issued a legal notice. Since, the accused did not come forward to pay the money, a complaint was given. The case was taken on file in C.C.No.130 of 2005 on the file of the Judicial Magistrate No.II, Pollachi. After trial, the accused was convicted by the learned Judicial Magistrate No.II, Pollachi, for the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for three months. The judgment of conviction and sentence imposed on the petitioner/accused was also affirmed by the

learned Additional District and Sessions Judge, Fast Track Court No.II, Coimbatore, on 15.11.2008 in CrI.A. No. 156 of 2008. Aggrieved against the same, the petitioner/accused has come forward with the present Criminal Revision Case.

2. When this Court admitted the Petition on 31.12.2008, notice was ordered by this Court. But till date, the notice is not able to be served on the respondent. The matter has been kept pending from 2008, there is no use in sending fresh notice and hence, after hearing the learned counsel for the petitioner, I am inclined to pass the following order.

3. Today, when the matter is taken up, Mr.M.N.Balakrishnan, learned counsel appearing for the petitioner/accused would submit that he is not arguing the matter on merits but he is confining his argument only on the question of sentence imposed on the petitioner/accused by the Courts below. He would further submit that the accused is willing to pay the cheque amount and therefore, he pleaded for showing leniency in reduction of sentence.

4. Taking into consideration of the fact that the petitioner/accused is not arguing the matter on merits but he is confining his argument only on the question of sentence imposed on the petitioner by the Courts below, apart from that the petitioner/accused is willing to pay back the cheque amount, I am of the view that some leniency can be shown to the petitioner in reducing the sentence. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone is modified to the effect directing the petitioner/accused to deposit a consolidated sum of Rs.43,000/- as compensation, instead of the imprisonment awarded by the Appellate Court. The said amount of Rs.43,000/- (Rupees Forty Three Thousand only) has to be deposited by the petitioner/ accused to the credit of C.C.No. 130 of 2005 on the file of the learned Judicial Magistrate No.II, Pollachi, within a period of two months from the date of receipt of a copy of this order, failing which, the judgment passed by the Appellate Court shall stand revived and the respondent/complainant is at liberty to approach the Trial Court, which shall take steps to secure the accused to undergo the remaining period of sentence.

5. With the above modification in sentence, this Criminal Revision Case is partly allowed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Additional District and Sessions Judge, Fast Track Court
No.II,

2.do-Thro The Principal Sessions Judges Coimbatore

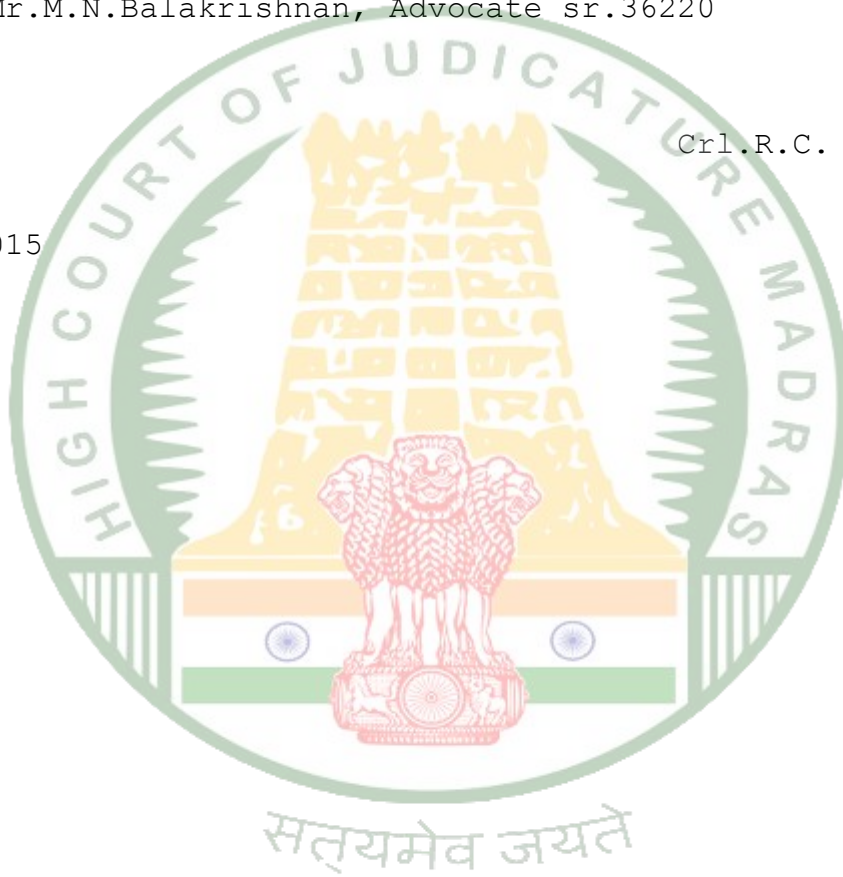
3.The Judicial Magistrate No.1I, Pollachi.

4.do-Thro The Chief Judicial Magistrate, Coimbatore

+1 cc to Mr.M.N.Balakrishnan, Advocate sr.36220

Cr1.R.C. No. 1677 of 2008

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