

Bail Slip

The Petitioner/Accused namely R.S.S. Krishnan, was directed to be released on bail vide order dated 20.12.2012 made in Crl.M.P.No. 1 and 3 of 2012 in Crl.R.C.No. 1547 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1547 of 2012

R.S.S. KrishnanPetitioner/Accused

Versus

M/s. S.D. Pazhamalai Chettiar
through its Partner P. Veerappan
32, Gandhi Road, Panruti
Cuddalore District

...Respondent/Complainant

Criminal Revision Case filed under Sections 397 read with 401 of Cr.P.C. to set aside the Judgment dated 04.12.2012 made in Criminal Appeal No. 13 of 2011 on the file of Principal Sessions Judge, Cuddalore Division, Cuddalore confirming the Judgment dated 12.01.2011 passed in C.C. No. 160 of 2010 on the file of Judicial Magistrate No.II, Panruti.

For Petitioner : Mr. S.T. Varadarajulu

For Respondent : Mr. R. Sunil Kumar

ORDER

The respondent herein has filed the complaint in C.C. No. 160 of 2010 before the trial Court under Section 138 of The Negotiable Instruments Act complaining that he is carrying on grocery business in the name and style of M/s. S.D. Pazhamalai Chettiar and during the course of such business, the petitioner, who is the Proprietor of Archana Hotels purchased groceries from the respondent on credit business. By such transaction, the partner of the respondent namely Veerappan and the petitioner/accused got closely associated. On one such occasion, the petitioner/accused requested the

respondent to pay a sum of Rs.13,00,000/- to meet his business commitments and assured to repay the same within a month. On such representation, the respondent paid Rs.13,00,000/- to the petitioner/accused on 14.06.2008 and on receipt of the amount, the petitioner/accused has issued a cheque for Rs.13,00,000/- in favour of the respondent firm and requested to present the cheque after a month. Accordingly, the cheque was presented on 14.07.2008 for encashment, but it was dishonoured for the reasons funds insufficient. Therefore, on behalf of the respondent firm, a notice dated 29.07.2008 was issued calling upon the petitioner to pay the cheque amount. On receipt of the notice, the petitioner/accused issued a reply on 11.08.2008 with false and untenable reasons.

2. The trial Court, on consideration of the oral and documentary evidence, found the petitioner/accused guilty of commission of the offence punishable under Section 138 of The Negotiable Instruments Act and sentenced him to undergo simple imprisonment for one year with fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months. On appeal, the Appellate Court dismissed the Criminal Appeal filed by the petitioner and confirmed the Judgment of conviction passed by the trial Court. As against the concurrent decisions of the court below, the petitioner/accused has come forward with this Criminal Revision Case.

3. The learned counsel for the petitioner submits that he is not arguing the case on merits but confined his argument only for reduction of sentence. According to the counsel for the petitioner, the petitioner is prepared to pay the cheque amount and prayed this Court to modify the sentence imposed by the Courts below.

4. Per contra, the learned counsel for the respondent would contend that the respondent is only intending to recover the cheque amount and sending the petitioner to imprisonment will not be of beneficial to the respondent. Therefore, if the cheque amount is paid by the petitioner, this Court can consider modifying the sentence.

5. I heard the counsel for both sides. As the revision petitioner/accused is prepared to pay the cheque amount and prays for reduction of sentence, for which the counsel for the respondent also has no objection, this Court is inclined to modify the sentence imposed on the petitioner. Accordingly, while upholding the conviction imposed on the petitioner by the courts below, the sentence alone is modified on condition the petitioner pays the cheque amount of Rs.13,00,000/- directly to the respondent or in

the alternative to deposit it before the Trial Court to the credit of C.C. No. 160 of 2010 on the file of the learned Judicial Magistrate No.II, Panruti, within a period of three months from the date of receipt of a copy of this order. If the petitioner fails to pay the cheque amount within the time stipulated above, the order passed by the courts below shall stand restored. In such event, the trial Court shall take steps to secure the presence of the petitioner to undergo the period of sentence imposed by it. Accordingly, the Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Cuddalore Division,
Cuddalore.
2. The Judicial Magistrate No.II,
Panruti.
3. -Do- Through The Chief Judicial Magistrate,
Cuddalore.

1 CC to Mr. S.T. Varadarajulu, Advocate SR.No. 37315

1 CC to Mr. R. Sunil Kumar, Advocate SR.No. 37373

RSI (CO)
PSI (07.09.2015)

CrI. R.C.No. 1547 of 2012

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