

BAIL SLIP

The Appellant/Accused in both the Criminal Revision Cases namely R.Prakashmoorthy S/o.Ramasamy Gaunder was directed to be released on bail as per order dated 10.3.08 and made in M.P.No.1 of 2008 in Crl.RC.No.354 and 355 of 2008 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.4.2015

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THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case Nos. 354 and 355 of 2008

R.Prakashmoorthy ... Petitioner/Appellate in both cases

Versus

R.N.Varadharaj ... Respondent/Respondent in Crl.RC.No.354 of 2008

Devaraj ... Respondent/Respondent in Crl.RC.No.355 of 2008

Criminal Revision Cases filed under Section 397 and 401 of Cr.P.C. against the Judgment made in C.A.Nos.386 of 2007 and 387 of 2007 by the learned Additional District Judge cum Fast Track Court No.II, Coimbatore by its judgment dated 26.2.2008 confirming the conviction and sentence imposed by the learned Judicial Magistrate No.II, Coimbatore in C.C.Nos.312 of 2004 and 309 of 2004 by its judgment dated 03.8.2007 for the offences under Section 138 of Negotiable Instrument Act sentencing the petitioner to undergo 6 months simple imprisonment and to pay a fine of Rs.5000/-.

For Petitioner in both cases : Mr. C.D.Johnson

C O M M O N O R D E R

The respondents filed C.C.Nos.312 of 2004 and 309 of 2004 on the file of the learned Judicial Magistrate No.II, Coimbatore against the petitioner/accused under Section 138 of the Negotiable Instruments Act and upon trial, the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.5,000/- to the respondents and in default to undergo 1 month simple imprisonment. Such conviction and sentence imposed on

the petitioner was also confirmed in appeal by the learned Additional District Judge cum Fast Track Court No.II, Coimbatore in C.A.Nos. 386 of 2007 and 387 of 2007 on 26.2.2008. Aggrieved by the same, the present Criminal Revisions are filed by the petitioner.

2. The petitioner herein is the accused and the respondents are the complainant. The respondents have filed C.C. Nos. 312 of 2004 and 309 of 2004 before the trial court complaining that the petitioner accused was running a finance company and at his request, the respondents deposited a sum of Rs.4,50,000/- and 70,000/- respectively. Since the interest has not been paid properly, the respondents / complainants requested the petitioner accused to return the deposited money. Pursuant to the said request, the petitioner has given cheques to the respondents to the tune of Rs.4,50,000/- and Rs.70,000/- respectively on various dates and when the said cheques were presented for encashment, the same were returned with an endorsement "insufficient funds". Therefore, the respondents/complainants issued a statutory notice to the accused. Since no action was taken, the respondents presented complaints before the Judicial Magistrate No.II, Coimbatore, under Section 200 Cr.P.C., for the offence under Section 138 of the Negotiable Instrument Act. The said complaints were taken on file and after a full-fledged trial, the trial Court found the petitioner guilty and convicted him for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.5,000/- to the respondents and in default to undergo 1 month simple imprisonment. Aggrieved over the said conviction, appeals were preferred by the accused before the Additional District Judge cum Fast Track Court No.II, Coimbatore, and the same were dismissed. Against which the present Revisions have been filed.

3. According to the learned counsel for the petitioner, the cheques in question have been obtained from the petitioner towards discharge of debt borne out of settlement deed but the settlement deed is not produced or marked before the Courts below and the Courts below failed to consider the various documents to show that the cheques in question were not given for any legally enforceable debt. Therefore, according to the learned counsel, the conviction and sentence imposed on the petitioner are liable to be set aside. However, the learned counsel for the petitioner submitted that if this Court comes to a conclusion that the orders passed by the Courts below needs no interference, then he prayed this Court to consider reducing the sentence imposed on the petitioner by showing some leniency especially by taking note of the fact that the petitioner has deposited a sum of Rs.15,000/- in each case pursuant to the direction issued by this Court on 10.03.2008 in MP.Nos.1 of 2008 in CrI.RC.Nos.354 and 355 of 2008.

4. It is the case of the respondents before the Courts below that the cheques in question have been issued by the petitioner and

the same have been proved by the complainant by producing Exs.A7 to A20. According to the respondents, the petitioner is legally bound to repay the amount received from the respondents.

5. I heard the learned counsel for the petitioner and perused the materials placed on record including the judgments of the Courts below.

6. Admittedly, Exhibits A7 to A20 would clearly indicate that the petitioner/accused has received money from the respondents/complainant. Though the petitioner/accused denied the fact that he is running the chit transaction, in his evidence, he admitted the signatures found in Exs.A7 to A.20. When the accused himself has admitted the signature found in Exs.A.7 to A20, the transaction is clearly proved beyond reasonable doubt. When there is a clear admission by the petitioner accused with regard to the transaction, nothing more is required to prove the offence. This fact was properly appreciated by the Courts below while convicting and sentencing the petitioner. Therefore, there is no need to interfere with the reasoned judgments of the Courts below.

7. Accordingly, the Criminal Revisions are dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. Additional District Judge cum Fast Track Court No.II,
Coimbatore

2. The Judicial Magistrate No.II, Coimbatore.

3. -do- Chief Judicial Magistrate, Coimbatore.

4. The Superintendent, Central Prison, Coimbatore.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

Crl RC Nos. 354 and 355 of 2008

RSY(CO)
CA(19/05/2015)