

Bail Slip

The petitioner/Accused be and hereby are directed to be released on bail on 18.11.2009 and made in MP.No.1/2009 in Crl.Rc.834/01

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-06-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 834 of 2009

T. Parasuraman

.. Petitioner

Versus

Srikanthan Bharathi

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code to set aside the judgment dated 27.07.2009 passed in Criminal Appeal No. 12 of 2008 on the file of Additional District Judge, Fast Track Court No.3, Thiruvallur confirming the judgment dated 01.02.2007 passed in C.C. No. 23 of 2003 on the file of Judicial Magistrate No.1, Thiruvallur.

For Petitioner : Mr. E.J. Ayyappan

For Respondent : Notice sent, but service awaited

ORDER

The respondent has filed a private complaint under Section 200 of Cr.P.C. praying to punish the revision petitioner herein for having committed the offence under Section 138 of the Negotiable Instruments Act. According to the respondent, on the request made by the revision petitioner, he paid a sum of Rs.90,000/- as hand loan to meet his urgent house hold expenses. On receipt of the amount, the revision petitioner agreed to pay interest on the borrowed amount at the rate of 24% per annum. Subsequently, to discharge the legally enforceable debt, the revision petitioner issued a cheque dated 17.12.2002 for Rs.90,000/- but it was dishonoured on presentation for want of funds. The respondent therefore issued a statutory notice on 24.12.2002 calling upon the revision petitioner to pay the cheque amount. Even though the revision petitioner received the statutory notice, he did not send any reply or paid the cheque amount. The trial Court, after completion of trial, passed a judgment of conviction convicting the revision petitioner under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of six months and also to pay compensation of Rs.90,000/- to the complainant/respondent, in default to undergo simple imprisonment for a period of four months. The revision petitioner unsuccessfully assailed the judgment of conviction passed by the trial court by filing an appeal inasmuch as it was also dismissed by the Appellate Court. This revision is filed questioning the correctness of the aforesaid orders passed by the courts below.

2. Even though notice was sent to the respondent, till date, service has not been effected and service is awaited.

3. The learned counsel appearing for the revision petitioner/accused did not argue the case on merits, rather, he confined his argument with respect to reduction of sentence. According to the learned counsel for the petitioner, the revision petitioner is prepared to pay the cheque amount to the complainant if time is granted to him. It is also submitted that pending the Criminal Revision Case, as per the direction of this Court issued on 18.11.2009, the petitioner deposited 50% of the cheque amount before the trial court and the balance 50% amount alone is payable. It is also submitted that the revision petitioner repents his misdeeds and prayed for setting aside the conviction and sentence passed by the courts below.

4. I heard the learned counsel for the petitioner and perused the records. Even though the petitioner is prepared to pay the cheque amount, the conviction and sentence imposed on him cannot be set aside by mere payment of the cheque amount. The cheque was issued on 17.12.2002 and almost a decade has passed now. Further, at this stage, sending the revision petitioner to jail will not also serve any purpose. Rather, if the revision petitioner is directed to pay double the cheque amount and it is paid to the complainant as compensation, interest of justice would be met. Therefore, while upholding the conviction imposed on the petitioner by the courts below, the sentence alone is modified in to one of compensation directing the petitioner to pay double the cheque amount which works out to Rs.1,80,000/- after deducting the sum of Rs.45,000/- already deposited (Rs.1,80,000 - Rs.45,000/- = Rs.1,35,000/-) directly to the complainant or in the alternative to deposit it before the trial court to the credit of C.C. No. 23 of 2003 within a period of three months from the date of receipt of a copy of this order. It is made clear that if the petitioner failed to pay or deposit the balance amount within the time stipulated, the order passed in this Criminal Revision Case will not enure to his benefit and consequently the orders passed by the Courts below will be revived. In such event, the trial Court shall take appropriate steps, as are necessary, to secure the presence of the accused/revision petitioner to undergo remaining period of sentence.

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

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Judge  
Fast Track Court No.3  
Thiruvallur

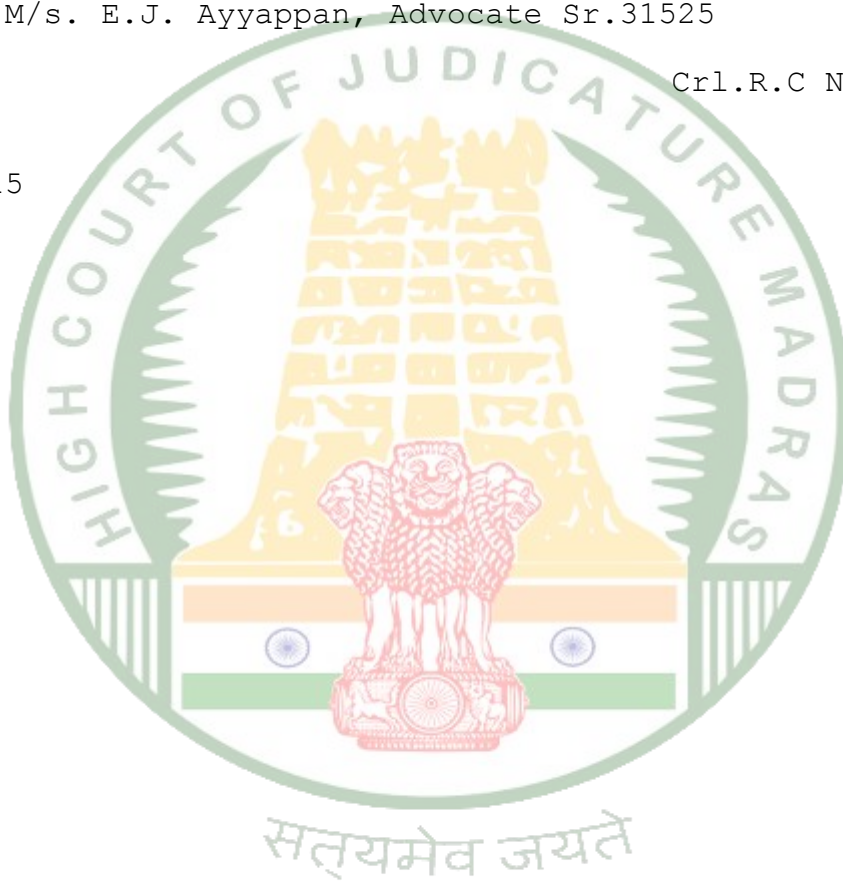
2. The Judicial Magistrate No.1  
Thiruvallur

3. -do- Through Chief Judicial Magistrate NO.1, Egmore.

+ 1 cc to M/s. E.J. Ayyappan, Advocate Sr.31525

Cr1.R.C No. 834 of 2009

MP (CO)  
Eu 21.07.15



WEB COPY