

BAIL SLIP

Sulthan, S/o.Batsha was directed to be released on bail vide order of this Court dated 12.8.2010 in M.P.No.2 of 2010 in CrI.R.C.No.849/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-06-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 849 of 2010

Sulthan .. Petitioner

Versus

K. Sarojini .. Respondent

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code to set aside the judgment dated 20.04.2010 made in Criminal Appeal No. 140 of 2009 on the file of Additional District Judge/Fast Track Court No.II, Gobichettipalayam confirming the judgment dated 10.07.2009 made in C.C. No.380 of 2007 on the file of Judicial Magistrate No.1, Gobichettipalayam.

For Petitioner : Mr. S. Lakshmanasamy
For Respondent : Mr. V.S. Kesavan

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, she paid a sum of Rs.2,00,000/- for his urgent needs on 09.01.2007. On borrowing the amount, in order to secure prompt repayment of the loan amount, the revision petitioner issued a post dated cheque for Rs.2,00,000/- drawn on Union Bank of India, Gobichettipalayam branch in favour of the respondent. When the respondent presented the cheque for collection on 27.02.2007 with her banker namely City Union Bank Limited, Gobichettipalayam, it was dishonoured for the reasons "insufficient funds". Therefore, on 22.03.2007, the respondent issued a statutory notice calling upon the revision petitioner to pay the cheque amount. Even though the notice was received, the revision petitioner did not issue any reply or paid the cheque amount. In the above circumstances, the respondent has filed the above C.C. No. 380 of 2007.

2. 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 two years. The revision

petitioner unsuccessfully assailed the judgment of conviction passed by the trial court by filing an appeal in CrI.Appeal No. 140 of 2009 inasmuch as it was also dismissed by the Appellate Court on 20.04.2010. This revision is filed questioning the correctness of the aforesaid orders passed by the courts below.

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 the revision petitioner repents his misdeeds and prayed for setting aside the conviction and sentence passed by the courts below.

4. The learned counsel appearing for the respondent/complainant would submit that the cheque was issued during January 2007 and now seven years has lapsed. Therefore, the learned counsel for the complainant/respondent only plead this Court to direct the accused/revision petitioner to pay some more amount as compensation to the complainant/respondent.

5. I heard the learned counsel for both sides 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 during January 2007 and almost seven years 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.4,00,000/- and such amount shall be directly paid to the complainant/respondent herein or in the alternative to deposit it before the trial court to the credit of C.C. No. 380 of 2007 on the file of the learned Judicial Magistrate No.I, Gobichettipalayam 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.

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

Sd/-

Assistant Registrar

True Copy

To

1. The Additional District Judge
/Fast Track Court No.II
Gobichettipalayam

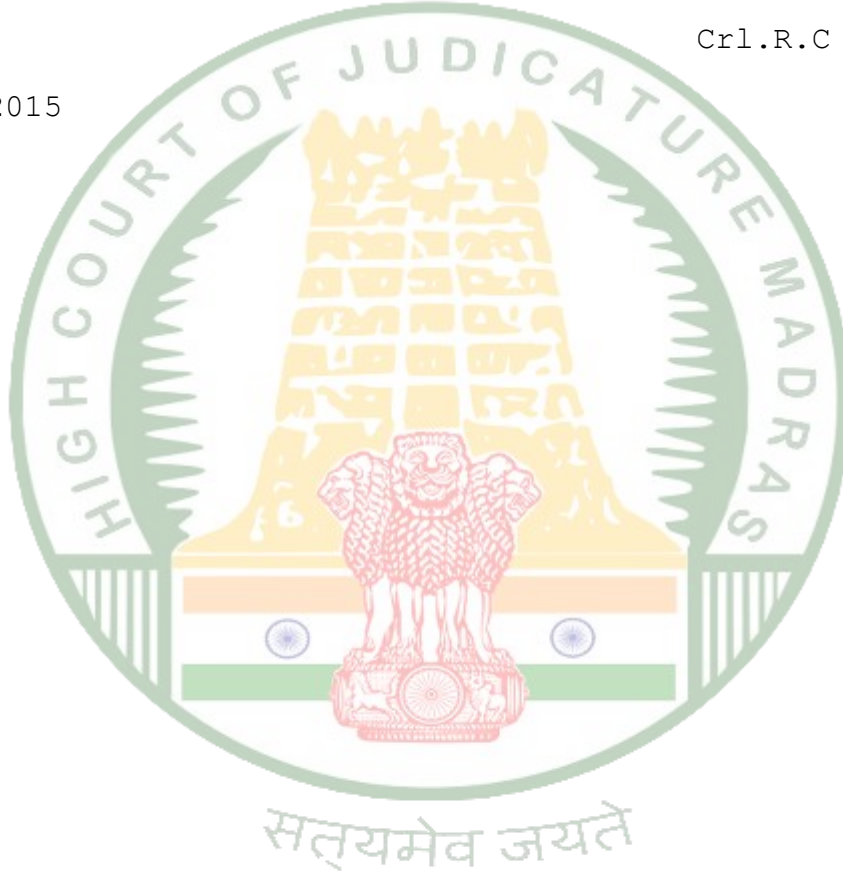
2. The Judicial Magistrate No.1
Gobichettipalayam.

3.The Public Prosecutor, High Court, Madra.

1 cc to Mr.V.S. Kesavan , Advocate Sr.No.30970

Crl.R.C No. 849 of 2010

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pmk.15.7.2015



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