

Bail Slip

The Petitioner herein/Accused namely Rajalakshmi W/o.Shanmugam aged about 34 years was directed to be released on bail as per the order of this Court dated 22.12.2010 made in MP.Nos.2 & 2/2010 in Crl.R.C.Nos.984 & 985/2010 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN
CRL. R.C. Nos. 984 and 985 of 2010

Rajalakshmi .. Petitioner
in both revisions/Accused

Versus

Murugaboopathy .. Respondent
in both revisions/Complainant

Criminal Revision Cases filed under Sections 397 and 401 of the Criminal Procedure Code, against the Judgments dated 16.06.2010 passed in Crl.A. Nos. 111 and 112 of 2009 on the file of the Additional District Judge, Fast Track Court No.II, Salem, confirming the orders dated 18.09.2009 passed in C.C. Nos. 2183 and 362 of 2007 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioner : Mr. S.Sivakumar
in both revisions.

For Respondent : Mr. M.R.Sivakumar
in both revisions.

COMMON ORDER

On the basis of the complaints given by the complainant, viz., Murugaboopathy cases were registered against the petitioner/accused for the offence punishable under Section 138 of Negotiable Instruments Act. Ultimately, after trial, the Judicial Magistrate No.III, Salem, in C.C.Nos. 2183 and 362 of 2007, by orders dated 18.09.2009, convicted the accused for the offence punishable under Section 138 of Negotiable Instruments Act in each case and sentenced to undergo simple imprisonment for three months and also to pay a fine of Rs.750/-, in default, to undergo one month simple imprisonment in each case. Aggrieved by the same, the accused have filed Crl.A. Nos. 111 and 112 of 2009 before the learned Additional District and Sessions Judge, Fast Track Court No.II, Salem, and the same were dismissed, by judgments dated 16.06.2010, thereby, confirming the conviction and sentence imposed by the Trial Court. Aggrieved by the judgments passed by the Appellate Court, the petitioner has filed the present Criminal Revision Cases.

2. The case of the respondent/complainant is that the petitioner/accused borrowed a sum of Rs.25,000/- in each case on 31.07.2007 and to discharge the said debt, the accused issued cheques for Rs.25,000/- in each case. When the respondent/complainant, presented the cheques for collection, the same returned with an endorsement "Insufficient Funds" and after issuing statutory legal notices, the respondent/complainant filed private complaints under Section 138 of Negotiable Instruments Act. After trial, the accused was found guilty and convicted to undergo imprisonment as aforesaid. Aggrieved against the conviction and sentence of the Trial Court, the accused has preferred Criminal Appeals. The Criminal Appeals were dismissed, thereby, confirming the judgment of conviction and sentence passed by the Trial Court and hence, the petitioner/accused has come forward with these Criminal Revision Cases.

3. Mr.S.Sivakumar, learned counsel appearing for the petitioner/accused would submit that she has handed over two signed unfilled undated cheques at the time of borrowing the amount and subsequently, she discharged the entire debt as per Ex.D.2.

4. Mr.M.R.Sivakumar, learned counsel appearing for the respondent/complainant would point out a discrepancy that during the cross-examination of P.W.1/complainant, it has been suggested to him by the accused that for the business transaction of accused, the complainant has advanced loan to the accused and it was collected on day to day basis, but, on the contrary, in Ex.D.2, it was mentioned that the complainant collected the loan amount from the accused once in a week. He would further contend that there is no explanation forthcoming from the petitioner/accused as to why the accused failed to sent any legal notice to get back the said two cheques from the complainant after due repayment of the borrowed amount.

5. At this juncture, learned counsel for the petitioner/accused submitted that he is not arguing the matters on merit but he is confining his argument only on the question of sentence imposed on the petitioner by the Courts below. The learned counsel for the petitioner further submitted that the petitioner/accused is willing to repay the cheque amount and pleaded for showing leniency in reduction of sentence.

6. Heard both sides. By consent, both Criminal Revision Cases are taken up for final disposal.

7. Though, there is a discrepancy pointed out, having regard to the fact that the learned counsel appearing for the petitioner/accused has now confined his argument only on the question of sentence imposed on the petitioner by the Courts below, apart from the fact that the petitioner is willing to pay back the cheque amount, viz., Rs.25,000/- in each case, 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 reduced to the period already undergone by the petitioner/accused and the petitioner/accused is directed to pay the respondent/complainant directly a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in each case, within a period of

eight weeks from today, failing which, the judgments passed by the Appellate Court shall stand revived.

8. With the above modification in sentence, these Criminal Revision Cases are partly allowed.

Sd/-
Assistant Registrar

True Copy

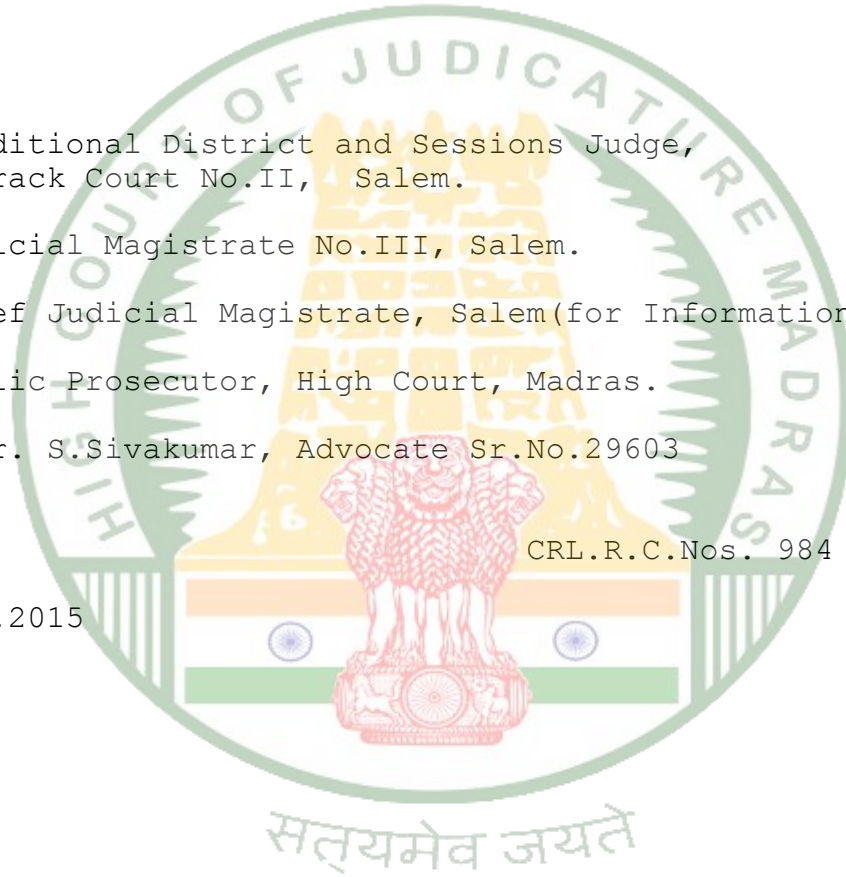
Sub Assistant Registrar

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To

- 1.The Additional District and Sessions Judge,
Fast Track Court No.II, Salem.
 - 2.The Judicial Magistrate No.III, Salem.
 - 3.The Chief Judicial Magistrate, Salem(for Information)
 - 4.The Public Prosecutor, High Court, Madras.
- 1 cc to Mr. S.Sivakumar, Advocate Sr.No.29603

CRL.R.C.Nos. 984 and 985 of 2010

sai(co)
pmk.23.06.2015



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