

Bail Slip

The Petitioner herein/Appellant/Accused (viz) P.Ramesh Kumar, s/o.K.Perumal, was directed to be released on bail by the order of this court dated 1.4.2013 in Crl.R.C.No.423 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-04-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 423 of 2013
and
M.P. No. 1 of 2015

P.Ramesh Kumar ...Petitioner/Appellant/Accused.

Versus

M/s. Devi Constructions
Rep. by its Managing Partner
P.Jeyabal
S/o.Palaniapa Gounder
2, Yercaud Road
Salem-7
Salem District.

... Respondent/Respondent/Complainant.

Criminal Revision Case filed under Section 397 r/w. Section 401 of Cr.P.C. against the Judgment dated 3.7.2012 made in Crl.A. No.8 of 2012 on the file of the II Additional District and Sessions Judge, Salem, confirming the order dated 06.01.2012 made in S.T.C. No. 439 of 2009 on the file of the Judicial Magistrate No.III, Salem.

For Petitioner : Mr. P.Mani
For Respondent : Mr. T.T.Ravichandran

ORDER

In the Criminal Complaint filed by the respondent/complainant under Sections 138 and 142 of the Negotiable Instruments Act, by order dated 06.01.2012 made in S.T.C. No. 439 of 2009 on the file of the learned Judicial Magistrate No.III, Salem, the petitioner/accused was convicted under Section 138 of the Negotiable Instruments. The petitioner was sentenced to undergo 10 months simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one month. As against this conviction and sentence imposed on the petitioner, he has filed a Crl.A. No. 8

of 2012 on the file of the learned II Additional District and Sessions Judge, Salem, which was dismissed on 18.06.2012, thereby, confirming the judgment of the Trial Court. As against the same, the present Criminal Revision Case is filed.

2. Pending Criminal Revision Case, the petitioner has filed M.P. No. 1 of 2015 seeking permission to compound the offence under Section 138 of the Negotiable Instruments Act by setting aside the conviction and sentence imposed on the petitioner by the Courts below.

3. As per the petition for compounding the offence under Section 138 of the Negotiable Instruments Act, the respondent has agreed to receive a sum of Rs.2,70,000/- (Rupees Two Lakhs Seventy Thousand only) in full quit for the cheque amount of Rs.4,24,436/-. According to the petitioner, as per the compromise arrived at, the petitioner has paid a sum of Rs.2,70,000/- to the respondent on 11.09.2014 and the respondent acknowledged the same and issued a receipt to the petitioner on the same day. Therefore, according to the petitioner, since the dispute between him and the respondent has been resolved amicably and the respondent received the said amount in full quit for the cheque amount, therefore, the offence under Section 138 of the Negotiable Instruments Act may be compounded by setting aside the conviction and sentence imposed on the petitioner by the Courts below.

4. The learned counsel appearing for the respondent has no objection for allowing M.P. No. 1 of 2015 and also for compounding the offence imposed on the petitioner by the Courts below.

5. Considering the fact that the dispute has been compromised between the parties and the petitioner has also filed M.P. No. 1 of 2015 and prayed this Court to compound the offence, M.P. No. 1 of 2015 is allowed and the respondent is permitted to compound the offence under Section 138 of the Negotiable Instruments Act against the petitioner as per the decision of the Honourable Supreme Court in (i) B.M. Joshi vs. State of Haryana (2003) 4 SCC 675 (ii) Nikhil Merchant vs. C.B.I. 2008 (3) SCC CrI 858 (iii) Jagdish Chanana and others vs. State of Haryana 2009 (3) SCC CrI. 1157. Accordingly, following the decisions of the Honourable Supreme Court referred to above, this Court is of the view that the proceedings against the petitioner could be set aside. Consequently, the Judgment dated 03.07.2012 made in CrI.A. No.8 of 2012 on the file of learned II Additional District and Sessions Judge, Salem, confirming the order

dated 06.01.2012 made in S.T.C. No. 439 of 2009 on the file of the learned Judicial Magistrate No.III, Salem, are set aside. The Criminal Revision Case is allowed.

-s/d-
Assistant Registrar(J)
Dt:

True Copy

Sub-Assistant Registrar

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To

1. The II Additional District and Sessions Judge, Salem.
2. The Judicial Magistrate No.III, Salem.
3. The Chief Judicial Magistrate, salem
4. The Public Prosecutor, High Court, Madras.
5. The Section Officer, Criminal Section High Court, Madras.

+ 1 cc to Mr.P.Mani, Advocate SR 5677

Crl. R.C. No. 423 of 2013
& M.P.No. 1 of 2015



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