

BAIL SLIP

K.Sundaram, Petitioner lis on bail vide ordere dated 27.6.2008 in
M.P.No.1 of 2008 in CrI.R.C.No.890/2008 by this Hon'ble Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-04-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 870 of 2008

K. Sundaram

.. Petitioner

Versus

S.A. Ramu

.. Respondent

Petition filed under Section 397 and 401 of Criminal Procedure Code against the Judgment dated 30.11.2007 made in Criminal Appeal No. 161 of 2007 on the file of the First Additional Sessions Court, Erode confirming the judgment dated 13.07.2007 made in C.C. No. 549 of 2006 on the file of the Judicial Magistrate No.I, Erode.

For Petitioner	:	Mr. N. Manokaran
For Respondent	:	No appearance

ORDER

The respondent herein has filed C.C. No. 549 of 2006 under Section 138 of The Negotiable Instruments Act against the petitioner herein by contending that the petitioner borrowed a sum of Rs.1,10,000/- from him on 10.01.2006 to meet his urgent personal expenses. To discharge such debt, the petitioner alleged to have given a post dated cheque dated 10.05.2006 for the said sum. On 10.05.2006, when the respondent presented it for payment, it was returned with an endorsement "opening balance insufficient". The respondent therefore issued a statutory notice through his counsel on 12.05.2006 and it was duly received by the petitioner on 16.05.2006. In spite of receipt of notice, the petitioner did not pay the cheque amount or sent any reply. In those circumstances, the respondent filed the above C.C. No. 549 of 2006 before the trial court. During the course of trial, the respondent examined himself as PW1 and Exs. P1 to P5 were marked. On behalf of the accused, neither any witness was examined nor documents were marked. After trial, the learned Judicial Magistrate No.I, Erode sentenced the petitioner under Section 138 of The Negotiable Instruments Act and convicted him to undergo simple imprisonment for a period of two years. Such

conviction and sentence imposed on the petitioner was confirmed by the appellate Court in the appeal preferred by him. This Criminal revision case is filed against the aforesaid concurrent judgment of conviction rendered by the courts below.

2. Even though elaborate arguments have been advanced on behalf of the petitioner, the learned counsel for the petitioner restricted his argument only with respect to reduction of sentence and not on merits. According to the learned counsel for the petitioner, pending the Criminal Revision Case, this Court suspended the substantive sentence imposed on him on condition the petitioner pays Rs.30,000/- to the credit of C.C. No. 549 of 2006. The petitioner also, with great difficulty, paid the said amount. The cheque amount is Rs.1,10,000/- out of which the petitioner has paid Rs.30,000/- as on date. The petitioner is 56 years old and he is penniless. The learned counsel for the petitioner further submits that if time is granted, the petitioner will be in a position to pay the balance cheque amount of Rs.80,000/-. At any rate, the sentence of two years imposed on the petitioner by the courts below is excessive and it shall be considered to be reduced by this Honourable Court.

3. I heard the counsel for the petitioner. There is no representation for the complainant/respondent. The learned counsel for the petitioner did not argue the case on merits, rather, he only pleaded for reduction of sentence. Having regard to the submission of the counsel for the petitioner and the fact that the petitioner had paid Rs.30,000/- out of the cheque amount of Rs.1,10,000/-, I am inclined to modify the sentence imposed on the petitioner. If the petitioner pays the balance amount of Rs.80,000/- within a period of two months from the date of receipt of a copy of the order, the judgment of conviction imposed on him will be set aside. On the other hand, if the petitioner fails to pay the amount within the time stipulated, the petitioner shall undergo simple imprisonment for a period of three months as against the sentence of two years imposed by the courts below. If the petitioner fails to pay the balance amount of Rs.80,000/- as mentioned above, the trial court shall take necessary steps to secure the presence of the petitioner to enable him to undergo the modified sentence of three months.

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

Rsh

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

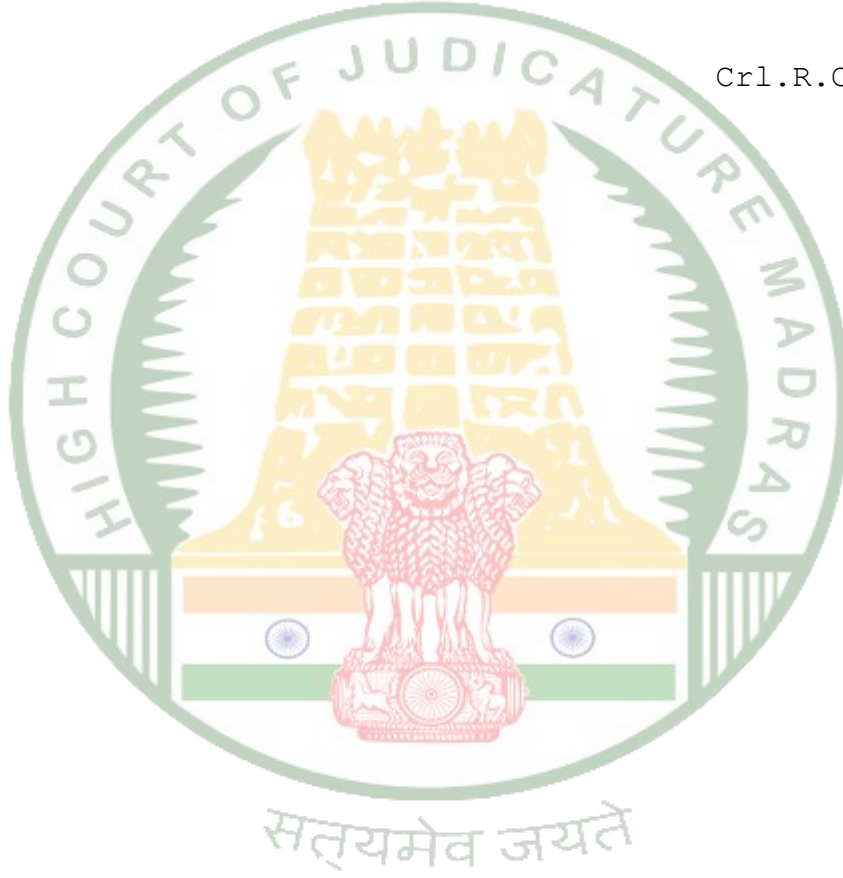
1. The First Additional Sessions Judge
Sessions Court, Erode

2. The Judicial Magistrate No.I, Erode.

+ 1 cc to Mr.N.Manokaran, Advocate SR 22551

cnr(co)
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Cr1.R.C No. 870 of 2008



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