

BAIL SLIP

The Revision Petitioner viz. Ramasamy, s/o.Kuppa Boyan @ Kuppusamy, aged about 59 years released on bail asper order dated 3.7.2008 in Crl.Rc.No.905/2008.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-08-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 905 of 2008

Ramasamy .. Petitioner

Versus

Palanisamy ... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 23.06.2008 made in Crl.A. No.106 of 2008 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.III, Dharapuram, confirming the judgment of conviction and sentence passed in C.C.No.238 of 2006 on the file of the learned Judicial Magistrate, Dharapuram, by order dated 17.03.2008.

For Petitioner : Mr.C.Ramkumar
For Respondent : Ms.Ramadevi
for M/s.B.Dyaneswaran

ORDER

The case of the respondent/complainant is that the petitioner/accused has borrowed a sum of Rs.4,50,000/- from the complainant on 30.04.2006 and he has agreed to repay the same on or before 30.05.2006. When the complainant demanded for repayment, the accused gave a cheque in favour of the complainant, dated 30.05.2006. When the alleged cheque was presented for collection, the same returned with an endorsement "Insufficient Funds". Pursuant to which, the complainant issued statutory notice. Since, the accused has not come forward to pay the cheque amount, a complaint was lodged and the same was taken on file in C.C. No. 238 of 2006 on the file of the Judicial Magistrate, Dharapuram, Erode District. After trial, the Trial Court convicted the petitioner/accused under Section 138 r/w. 142 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year. As against the judgment of conviction and sentence imposed on the petitioner, he has filed Crl.A. No.106 of 2008 before the learned Additional District and

Sessions Judge, Fast Track Court No.III, Dharapuram, Erode District, which was dismissed on 23.06.2008, thereby, confirming the judgment passed by the Trial Court. Aggrieved against the same, this Criminal Revision Case is filed.

2. Today, when the revision is taken up, Mr.C.Ramkumar, learned counsel appearing for the petitioner/accused would submit that earlier, there was a loan transaction between the complainant and the accused and subsequently, on 24.02.2005, the accused has repaid the borrowed amount of Rs.1,00,000/-, but the five cheques, which were given as security to the complainant, were misused by the complainant. He would further add that the petitioner is not arguing the matter on merit, but, he is confining his argument only on the question of sentence imposed on the petitioner/accused by the Appellate Court. He would further submit that the petitioner is willing to deposit the cheque amount, but, due to the fact that he is facing financial crunch in his business, he needs some time and hence, he prayed for showing leniency in reduction of sentence.

3. Ms.Ramadevi, learned counsel appearing for the respondent/complainant would submit that the cheque in dispute was issued in 2006 and till date, no amount has been paid by the accused. He would further add that the petitioner/accused may be directed to pay the cheque amount as compensation, instead of sending him to jail.

4. Heard both sides. By consent, this main Criminal Revision Case itself is taken up for final disposal.

5. Taking into consideration of the fact that the learned counsel appearing for the petitioner is not arguing the matter on merit but he is confining his argument only on the question of sentence imposed on the petitioner by the Appellate Court and prayed for showing leniency in reduction of sentence, I am of the view that some leniency can be shown to the petitioner/accused in reducing the sentence, by modifying the sentence imposed by the Appellate Court into one of the payment of the entire cheque amount of Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand only), as compensation, which shall be deposited to the credit of C.C. No.238 of 2006 before the Judicial Magistrate, Dharapuram, Erode District, within a period of three months from the date of receipt of a copy of this order, failing which, the judgment passed by the Appellate Court shall stand revived and the respondent/complainant is at liberty to approach the Trial Court, which shall take steps to secure the accused to undergo the remaining period of sentence. On such deposit being made, the complainant is permitted to withdraw the same from the Trial Court by filing an appropriate application before the Trial Court.

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

paa

s/d-
Assistant Registrar(CO)

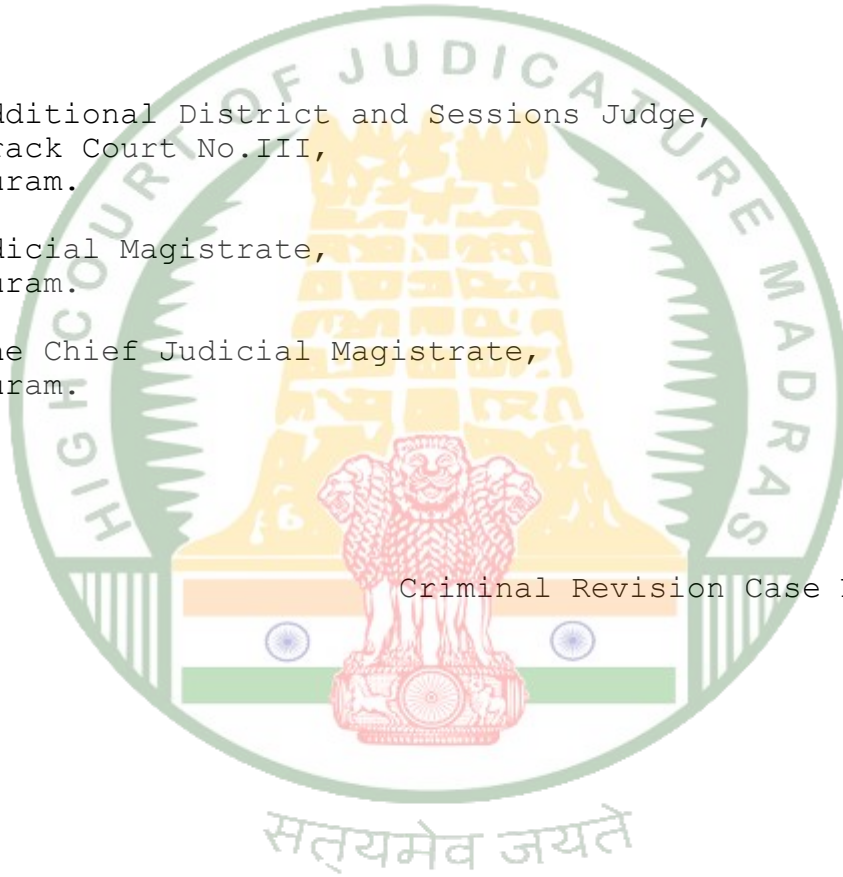
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Sub-Assistant Registrar

To

1. The Additional District and Sessions Judge,
Fast Track Court No.III,
Dharapuram.
2. The Judicial Magistrate,
Dharapuram.
3. Thro'The Chief Judicial Magistrate,
Dharapuram.

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Criminal Revision Case No.905 of 2008

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