

Bail Slip

The Accused namely G. Srinidya, was directed to be released on bail vide order dated 7.12.2016 made in CrI.R.C.No.1236/15 and MP.No.1/15.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

CrI.R.C.No.1236 of 2015
and
M.P.No.1 of 2015

G.Srividya ... Petitioner/Acceded

Vs.

E.Nagarajan
S/o.Elumalai ... Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment passed in C.A.No.71 of 2013 on the file of learned III Additional District Judge, Thiruvallur, at Poonamallee, on 27.04.2015 confirming the judgment of learned Judicial Magistrate II, Fast Track Court, Poonamallee, passed in S.T.C.No.134 of 2012 on 21.08.2013.

For Petitioner : Mr.R.Ponnusamy
For Respondent : Mr.S.Santhanam

O R D E R

This revision is preferred against two concurrent judgments of the Courts below convicting the petitioner for offence under Section 138 of the Negotiable Instruments Act.

2. Respondent/complainant moved a prosecution informing that a cheque bearing No.310641 dated 10.03.2010 in a sum of Rs.8,70,000/- drawn on Karur Vysya Bank Ltd., Nanganallur Branch, Chennai, stood issued to him by petitioner towards repayment of sale consideration, which upon presentation was returned unpaid for the reason "insufficient funds". Respondent/ complainant caused statutory notice and following the procedure envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been filed.

3. Before the trial Court, the respondent examined himself and marked six exhibits. No one were examined on behalf of the defence but three exhibits were marked. On appreciation of materials before it, trial Court, under judgment dated 21.08.2013, convicted the petitioner and sentenced him to 6 months S.I. and directed him to pay compensation in a sum of Rs.8,70,000/- to the complainant. There against, petitioner preferred C.A.No.71 of 2013 on the file of learned III Additional District Judge, Thiruvallur, Poonamallee, which came to be dismissed under judgment dated 27.04.2015. Hence, this revision.

4. Heard learned counsel for petitioner and learned counsel for respondent.

5. It is the submission of learned counsel for petitioner that, in the interests of justice, this Court would take note of the position that the cheque in question had not been issued towards discharge of liability but came to be issued upon use of force. Petitioner has raised such contention by way of defence and the same were not appreciated. As rightly noted by Courts below, the present is a case where no defence evidence was let in and no material has been placed to support such contention. The very initial presumption available u/s.139 of the Negotiable Instruments Act stands not rebutted and in such circumstances, there is no need for the respondent to prove the debt. Therefore, the further contention of learned counsel that there absolutely is no material to inform the particulars of the debt is not sustainable.

This Criminal Revision shall stand dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gm

To

1.The III Additional District Judge,
Thiruvallur, Poonamallee.

2.The Judicial Magistrate II,
Fast Track Court, Poonamallee.

3. The Principal District Judge, Tiruvallur.

+ 1 cc to M/s. R. Ponnusamy, Advocate Sr.3408

+ 1 cc to M/s. S.Santhanam, Advocate Sr.3695

Cr1.R.C.No.1236 of 2015

RSI (CO)

Eu 22.02.16