

BAIL SLIP

The Petitioner/Accused was directed to be released on bail in and by the order of this Court dated 21.10.2016 made in CrI.M.P.No.10825 of 2016 in CrI.R.C.No.1205 of 2016 on the file of the High Court of Madras.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM:

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

CrI.R.C.No.1205 of 2016

N.V.Kumarasamy Petitioner/Accused

Vs.

M.Ramasamy Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C. praying to set aside the judgment of learned II Additional District and Sessions Judge, Erode, passed in C.A.No.96 of 2016 on 07.09.2016 confirming the order of learned Judicial Magistrate, Fast Track Court No.II, Erode, passed in S.T.C.No.180 of 2015 on 06.04.2016.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.S.Vijayakumar

सत्यमेव जयते
O R D E R

This revision is preferred against two concurrent judgments of Courts below convicting the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo 1 year S.I. and directing him to pay a sum of Rs.5,000/- towards compensation i/d 1 month S.I.

2. Learned counsel for petitioner submits that in the course of cross examination of the respondent/complainant a certified copy of the petition moved by the complainant towards condonation of delay in preferring the original compliant was put to the complainant towards establishing that the trial court

had not so much as numbered the petition seeking condonation of delay. Courts below have failed to appreciate that delay in preference of complaint had not been duly condoned and hence the complainant case ought to have been rejected. Merely confronting the respondent/complainant with the certified copy of the application seeking condonation of delay which bears no number cannot be read against the record of the Court below informing that the condonation of delay had been effected under orders in CrI.M.P.No.3407/2007 dated 12.07.2007.

3. Learned counsel further submits that the complaint did not inform the date of service of the statutory notice issued u/s.138 of the Negotiable Instruments Act. The returned cheque, copy of the statutory notice as also the acknowledgement there regards have been duly marked by the Trial Court and copies of such documents also have been referred to in the complaint. Perusal thereof reveals that the complaint stands duly preferred and within time stipulated u/s. 138 of the N.I. Act.

4. Therefore, this Court for good reason, is unable to accept such technical pleas. We find no reason to interfere with the finding of conviction entered upon by the Courts below. However, taking into consideration the submissions of learned counsel for petitioner, this Court while confirming the fine imposed by the Courts below would alter the substantial sentence to one of eight months S.I. Learned Magistrate shall take steps to secure the petitioner towards his serving the remaining period of sentence.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpr

To

1.The II Additional District and Sessions Judge,
Erode.

2.The Judicial Magistrate,
Fast Track Court No.II,
Erode.

3.Do Through the Chief Judicial Magistrate,
Erode (For Information)

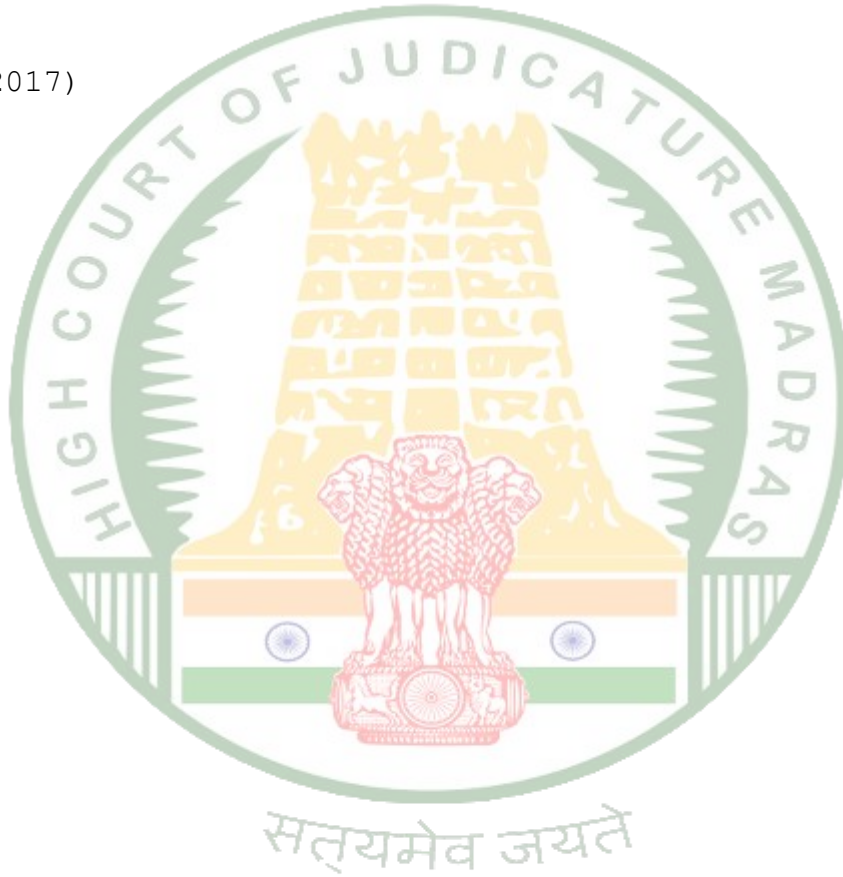
Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.A.K.Kumarasamy, Advocate, S.R.No.70364
+1cc to Mr.S.Vijayakumar, Advocate, S.R.No.70935

Crl.R.C.No.1205 of 2016

AK(CO)
CA(03/01/2017)



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