

Bail Slip

The Appellant/Accused Viz., S.Sathyanarayanbagopal, S/O Subbaiyah was directed to be released on bail as per the order of this Court dated 18.11.2016 in CrI.M.P.No.12208 and 12340/2016 in CrI R.C.No.1392 of 2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.1392 of 2016

and

CrI.M.P.Nos.12208 and 12340 of 2016

S.Sathyanarayanagopal, M/45 ... Petitioner

vs.

K.P.Shanmugam ... Respondent

Prayer :

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 09.09.2016, made in C.A.No.03 of 2016 on the file of the I Additional Sessions Judge, Erode confirming the conviction imposed in judgment dated 04.12.2015 made in S.T.C.No.302 of 2013 on the file of the Judicial Magistrate (Fast Track) Court No.I, Erode.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Mr.C.Ramkumar

O R D E R

WEB COPY

This revision arises against judgments of Courts below convicting petitioner for offence under section 138 and 142 of Negotiable Instruments Act, sentencing him to undergo six months S.I. and a fine of Rs.5000/- in default 15 days S.I.

2. Respondent/complainant preferred a complaint informing that petitioner/accused borrowed Rs.4,50,000/- from him on 13.03.2013 and towards discharge of the said debt, petitioner issued post dated Cheque No.015002 dated 12.04.2013 for Rs.4,50,000/- drawn on Tamil Nadu Industrial Co-operative Bank Limited, Perundurai Road, Erode Branch. Respondent presented the cheque, which was dishonoured for the reason 'Funds Insufficient'. Respondent caused statutory notice, followed the procedure envisaged under section 138 of the Negotiable Instruments Act and preferred the complaint. The case was tried in S.T.C.No.302 of 2013 on the file of learned Judicial Magistrate, Fast Track Court No.I, Erode.

3. Before the trial Court, the complainant examined himself and marked five exhibits. Three witnesses were examined on behalf of the defence and four exhibits were marked. On appreciation of materials before it, the trial Court, under judgment dated 04.12.2015, convicted the petitioner and sentenced him to 6 months S.I. and fine of Rs.5,000/- i/d 15 days S.I. The appeal preferred by petitioner in C.A.No.3 of 2016 on the file of learned I Additional Sessions Judge, Erode, came to be dismissed under judgment dated 09.09.2016. Hence, this revision.

4. Heard both sides.

5. The Courts below have arrived at a finding of conviction stating that though petitioner / accused has contended that Ex.P1-cheque was given to one Subbu @ Subramaniam-D.W.3, only towards security purpose, the said Subbu @ Subramaniam deposed that he does not know the complainant and he is no way related with the case. Once the issuance of cheque and signature thereon has been admitted by the petitioner, then it is his duty to rebut the presumption against him, which he had failed to do.

6. Learned counsel for the petitioner submitted that the actual borrowing of the petitioner was from DW3 and the sum due to such person was repaid. However, cheque given to DW3 had not been returned and the same had been misused towards foisting a false action. The petitioner has not chosen to enter the witness box. He chose to examine DW1-his wife towards informing complainant to be an usurious money lender. DW2 is the Manager of the Bank through which cheque was

returned unpaid. DW3, has been examined for the purpose of establishing the transaction with him alleged by the petitioner. The case of the petitioner finds no support from his witnesses. This Court finds no reason to interfere with the judgments under challenge.

The Criminal Revision case shall stand dismissed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rm

To

1. The I Additional Sessions Judge,  
Erode
2. The Judicial Magistrate,  
Fast Track Court No.I,  
Erode.
3. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.C.Ramkumar, Advocate Sr.7332

सत्यमेव जयते

CrI.R.C.No.1392 of 2016  
and

CrI.M.P.Nos.12208 and 12340 of 2016

WEB COPY

sk[co]  
srg 16/06/2017