

BAIL SLIP

The Appellant/Accused viz., R.Eswari Selvaraj, W/o.Selvaraj, was released on bail as per order of this court dated 11.02.2013 in Crl.MP.NO.1 of 2013 in Crl.R.C.No.147 of 2013 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.No.147 of 2013

R.Eswari SelvarajPetitioner/Accused

Vs.

B.Anusuya ...Respondent/Complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the judgment of conviction dated 10.10.2012 made in C.A.No.38 of 2012 by the learned IV Additional District and Sessions Judge, Coimbatore, confirming the judgment of conviction dated 12.01.2012 made in C.C.No.288 of 2011 by the learned Judicial Magistrate, Fast Track Court at Magistrate Level II, Coimbatore, (Transferred S.T.C.No.75 of 2010 from Judicial Magistrate VII, Coimbatore).

For Petitioner : Mr.N.Manokaran

For Respondent : Notice Served - No Appearance

ORDER

The petitioner herein is an accused and the respondent is complainant. The petitioner had borrowed a sum of Rs.55,000/- from the respondent and issued post dated cheques for the said liability. When the respondent presented the cheques for collection, the same were returned and hence the respondent sent legal notice dated 27.11.2009 and since there was no reply from the petitioner, the respondent filed a complaint before the learned Magistrate. The learned Magistrate found the accused guilty of offence punishable under Section 138 of Negotiable Instruments Act and by judgment dated 12.01.2012, convicted the petitioner and sentenced to undergo simple imprisonment for a period of three months with fine of Rs.2,000/-, in default, to undergo simple imprisonment for a further period of one month. Aggrieved against the judgment of conviction, the

petitioner/accused had preferred an appeal in C.A.No.38 of 2012 before the learned IV Additional District and Sessions Judge, Coimbatore. The learned Sessions Judge, after giving due opportunities to both the parties, by judgment dated 10.10.2012, had dismissed the appeal and confirmed the judgment of conviction made by the trial Court, against which, the petitioner has preferred this present criminal revision before this Court.

2 The learned counsel for the petitioner would submit that the petitioner had closed her account, from where the alleged cheque had been issued and subsequent cheques had been used in the year 2005-2006 itself, whereas, the alleged cheque was issued in the year 2009, which is not possible. The petitioner also examined her Bank Manager as D.W.2 and marked Ex.D1 to Ex.D5 to prove the defence of the petitioner. Furthermore, pending the above revision, the petitioner had paid entire cheque amount and the matter has been amicably settled between the parties, because of that only the respondent is not appearing before this Court. The learned counsel has produced some piece of proof for the same.

3 There is no representation on behalf of the respondent. Heard the learned counsel for the petitioner and perused the materials available on record.

4 The learned counsel for the petitioner/accused has reiterated the defence taken before the trial Court and further produced some piece of proof, which shows that the matter has been amicably settled between the parties, but, when the matter is called for hearing, there was no representation for the respondent. This Court does not find any illegality or infirmity in the judgment of conviction and the same is hereby confirmed and as far as sentence is concerned, this Court is inclined to modify the same.

5 Accordingly, the judgment of conviction made by the Courts below is hereby confirmed and sentence alone is modified that the petitioner shall pay the cheque amount to the respondent/complainant as compensation under Section 357 (3) of Cr.P.C. With the above modification, the criminal revision is dismissed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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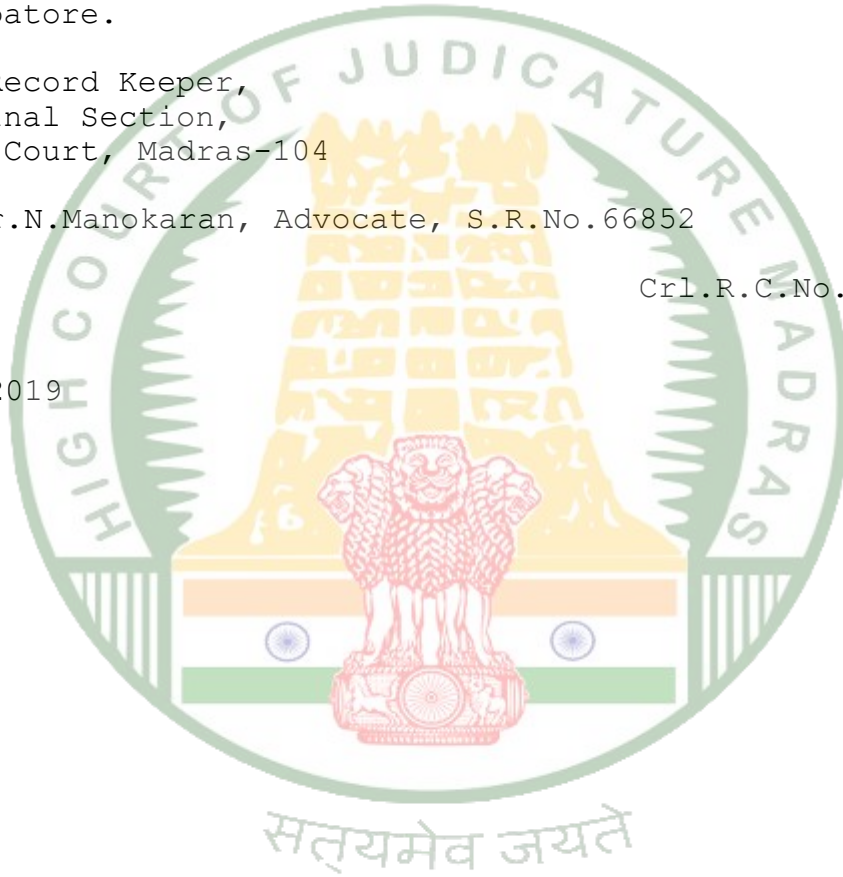
To

1. The IV Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate, Fast Track Court
at Magistrate Level II, Coimbatore.
3. The Judicial Magistrate-VII,
Coimbatore.
4. The Chief Judicial Magistrate,
Coimbatore.
5. The Record Keeper,
Criminal Section,
High Court, Madras-104

+1cc to Mr.N.Manokaran, Advocate, S.R.No.66852

CrI.R.C.No.147 of 2013

CH (CO)
NR/28/03/2019



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