

Bail Slip

The Revision Petition/accused namely T.K.Srinivasan S/O Krishnasamy, was directed to be released as bail by the order of this Court in MP.No.1 of 2011 in CRL.RC.No.383/2011 dt.21/03/2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.08.2018

Coram:

The Honourable Mr.Justice RMT.TEEKAA RAMAN

Criminal Revision Case No.383 of 2011

T.K.Srinivasan ... Revision Petitioner/Appellant
Accused No.2

/versus/

B.V.V.Paper Industries,
rep.by Power Agent,
Lakshmi Venkataraman,
Madhukulam, Udumalpet Taluk,
Coimbatore District.

... Respondent/Complainant/Respondent

Criminal Revision Case is filed under Section 397 read with Section 401 of Cr.P.C, to call for the entire records relating to the judgment of conviction made in C.A.No.17 of 2009 dated 06.11.2009 on the file of First Additional District and Sessions Judge, Coimbatore confirming the judgment and conviction made in C.C.No.22 of 2000 dated 20.01.2009 on the file of the Judicial Magistrate No.1, at Udumalpet.

For Appellant : Mr.Prem Kumar

For Respondent : Mr.J.Pratheep
for Mr.P.Saravana Sowmiyan

O R D E R

The Revision Petitioner is the accused in private complaint before the Judicial Magistrate. This case is arising out of dishonour of the cheque issued on 20.08.1999 for the sum of Rs.7,00,000/- and on presentation the same was bounced on 30.08.1997 and hence notice and reply has been exchanged. Thereafter, it appears C.C.No.22 of 2000 was filed before the Judicial Magistrate-I, Udumalpet which ended in conviction.

2. It appears that as against the said conviction and sentence the accused has preferred a Crl.A.No.267 of 2004 which was allowed and remanded back for reconsideration. Again after reconsideration the calendar case has ended in conviction against which he has filed Crl.A.No.17 of 2009 wherein the conviction and sentence passed by the First Additional District and Sessions Judge, Coimbatore is confirmed.

3. The learned counsel for the petitioner would submit that during the cross examination of PW.1 the accused has used to sign in a different format on and from 30.04.1999. While the subject issue, cheque is 20.08.1999 therefore, the changed signature was not reflected in the cheque and the private complaint/respondent has not proved any proper accounts. Hence, in the absence of any legal authorisation to prosecute the case as a power of agent the complaint is bad in law.

4. Per contra, the learned counsel for the respondent would draw the attention to Ex.D.1 marked before the trial Court and contended that the signature was not disputed by the present revision petitioner/accused and in fact the liability was also accepted by him and hence prayed for dismissal of the revision petitioner.

5. Heard both sides and perused the records.

6. Though, the learned counsel for the petitioner would contend that on and from 30.04.1999 the petitioner used to sign differently however, in respect of the cheque dated 20.08.1999 the signature is different and hence the private complainant is not entitled for statutory presumption. This Court has given anxious consideration for the said contention. It appears that from the evidence of DW.1 Bank Manager, on 30.04.2009 he has given the letter to the bank regarding change in his signature from "Sreenivasan" to Sreenivas and the signature found in the cheque in issue was Sreenivasan. Admittedly, the cheque is dated 20.08.1999.

7. It appears from the records of the lower Court that the legal notice issued by the private complainant and the

respondent herein Ex.P.6 for which Ex.D.4 was given a reply notice by the respondent herein. On perusal of the averments made in Ex.D.4 the accused has not at all disputed the signature and the issuance of the cheque nor the existing liability. However, in para 4, he has specifically admitted that due to dullness in the market the amount could not be collected from the parties and thereby, he is unable to effect the payment regularly. Further, he has not disputed the issuance of the cheque dated 20.08.1999 nor denied its any legally enforceable pre-existing liability. Further, he has promised the complainant to settle the dues at the earliest and thus in view of the averments in para 3 and 4 of the reply notice Ex.D.4, both the Courts below have correctly come to the conclusion that there is a legally enforceable debt between the accused and the complainant, which the accused has duly accepted and agreed to pay the amount. Hence all the contentions raised by the revision petitioner have no legs to stand.

8. Accordingly, the Criminal Revision Case is dismissed as devoid of merits. The conviction and sentence passed by the Trial Court is hereby confirmed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The Judicial Magistrate No.1, Udumapet.

2. The First Additional District and Sessions Judge, Coimbatore.

+1cc to Mr.P.Saravana Sowmiyan, Advocate, S.R.No.54707

+1cc to Mr.K.Premkumar, Advocate, S.R.No.54985

Criminal Revision Case No.383 of 2011

SJ(CO)

GSP(11/09/2018)