

BAIL SLIP

The Appellant/Accused namely R.Balashanmugam S/o.Ramasamy was directed to be released on bail as per the order of this court dated 02/08/2011 in CrI.MP.No.1 of 2011 in CrI.RC.No.977 of 2011 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CrI.RC.No.977 of 2011

R.Balashanmugam

..Petitioner/Accused

Vs.

N.P.Selvam

..Respondent/Complainant

Prayer: Criminal Revision has been filed under Section 397 & 401 of the Code of Criminal Procedure against the Judgement and conviction dated 21.04.2011 made in C.A.No.156/2010 on the file of Additional District Sessions Judge, (FTC No.I), Erode confirming the Judgement and conviction dated 07.09.2010 made in C.C.No.580/2006 on the file of Judicial Magistrate No.I, Erode.

For Petitioner : Mr.C.S.Saravanan

For Respondent :Mr.I.C.Vasudevan

O R D E R

The Criminal Revision has been preferred by the revision petitioner as against the sentence and conviction u/s.138 of Negotiable Instruments Act, 1881 against the Judgement and conviction dated 07.09.2010 made in C.C.No.580/2006 on the file of Judicial Magistrate No.I, Erode and confirming the same by the learned Additional District Sessions Judge, (FTC No.I), Erode in 21.04.2011 made in C.A.No.156/2010.

2.Aggrieved over the findings of the First Appellate Court confirming the judgment of the Judicial Magistrate No.1, Erode, awarded under Section 138 of Negotiable Instruments Act, sentencing the petitioner to go for one year simple imprisonment and fine of Rs.2,000/- and if fine not paid one month simple imprisonment, this revision petitioner has preferred this

Criminal revision.

3.The brief facts leading to file this Revision Petition as follows:

The revision petitioner had borrowed a sum of Rs.68,250/- from the respondent on 12.09.2006 and issued a cheque. The cheque was drawn on the account maintained by the revision petitioner. When the above cheque was presented for encashment, the same was returned with an endorsement "insufficient funds" and the dishonoured memo. The respondent immediately sent a legal notice and got the reply notice.

4.The main contention of the revision petitioner is that there is a material alteration in the cheque. Further, the Trial Court has not given any opportunity to compare the signature in the cheque. Further, the alleged borrowal has not been established.

5.There is no representation for the respondent. However, this Court perused the materials and dispose of the revision on merits.

6.Though, the contention of the learned counsel is that there is material alteration, on a perusal of the cheque, this Court finds that there is no material alteration. The trial Court has clearly noted that there is no material alterations.

7.It is further contended by the learned counsel appearing for the revision petitioner that the trial court has not given any opportunity to compare the signature found in the cheque. The above contention is also found to be false. In fact, in C.M.P. No.3785/2007, this Court has passed an order appointing Advocate Commissioner and handed over the cheque to the Forensic lab and directed the revision petitioner to take steps to pay the commissioner fee etc., However, the revision petitioner did not evince any interest to avail the opportunity granted by the Trial Court. Therefore, now the contention of the revision petitioner is that he has not given any opportunity, which has no force at all.

8.On a perusal of the entire judgment, the issuance of cheque is not at all denied by the revision petitioner. Even in his reply statement, he has categorically admitted that he has issued blank cheque to the respondent for business transactions.

When the issuance of cheque itself for the business transactions is admitted, it is for the revision petitioner to establish as to why there was no consideration at all.

9.The revision petitioner has failed to produce materials even in the form of probabilities. Therefore, this Court does not find any infirmity in the judgment passed by the First Appellate Court. However, taking into consideration of the amount due by the revision petitioner, this Court is inclined to modify the sentence from one year to six months.

10.Accordingly, this revision petition stands dismissed and the Trial Court shall take appropriate steps to secure the accused to serve the remaining period of sentence.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District Sessions Judge,
(FTC No.I), Erode

2.The Judicial Magistrate No.I,
Erode.

3.The Judicial Magistrate No.I
Erode

4.The Section officer
Criminal Section
High Court, Madras

Cr1.RC.No.977 of 2011

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