

BAIL SLIP

CRL.RC.NO.841/2010

The Appellant/accused namely M.Manikandasamy, was directed to be released on Bail as per order of this Court dated 12/08/2010 in MP.NO.2/2010 in CRL.RC.NO.841/2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Crl.R.C.No.841 of 2010

M.Manikandasamy ...Petitioner/Accused

Vs.

P.Balakrishnan ...Respondents/Complainant

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the judgment and conviction dated 29.06.2010 made in C.A.No.6/2010 on the file of IV Additional Sessions Judge, Chennai, confirming the judgment and conviction dated 18.11.2009 however compensation awarded by the trial court is Rs.3,00,000/- is alone set aside in C.C.No.4700/2006 on the file of XIII Metropolitan Magistrate, Egmore, Chennai and prays to set aside them.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : No Appearance

सत्यमेव जयते
O R D E R

Assailing the order dated 29.06.2010 made in C.A.No.6/2010, on the file of IV Additional Sessions Judge, Chennai, wherein the compensation of Rs.3,00,000/- alone was set aside and confirmed the sentence of 6 months imprisonment imposed in judgment dated 18.11.2009 made in C.C.No.4700 of 2006 by the learned XIII Metropolitan Magistrate, Egmore, Chennai, the present revision has been filed.

2 The brief facts leading to the filing of this revision is that the accused issued Ex.P1 cheque dated 27.01.2006 to the complainant for a sum of Rs.3,00,000/, drawn at Canara Bank, for the liability,. When the above cheque was presented by the

complainant, the same was dishonoured by the Bank. Therefore, the complainant issued a legal notice demanding the amount. As the amount has not been paid, the complainant initiated a complaint under Section 138 of the Negotiable Instruments Act, before the trial court.

3 During trial, the complainant also exhibited other documents to prove the nature of transaction and he also examined two other witnesses. Though the accused was examined as D.W.1, no document was marked. The learned trial court and the first appellate court concurrently held that there was no circumstances/probabilities to discharge the legal presumption attached to Ex.P1 and found the accused guilty under Section 138 of the Negotiable Instruments Act.

4 Challenging the simple imprisonment, the present revision has been filed.

5 Heard the learned counsel appearing for the revision petitioner, as there is no representation on behalf of the respondent, and perused the materials available on record.

6 The only contention of the learned counsel appearing for the revision petitioner before this Court is that the legal notice sent by the complainant has not been served upon him. Therefore, there were no ingredients to initiate action under Section 138 of the Negotiable Instruments Act as alleged in the complaint.

7 This Court perused the judgments of both the courts below and is of the view that such contention of the revision petitioner cannot be countenanced for the simple reason and in fact the notice was issued only after the dishonor and it was also served to the correct address, where the revision petitioner resides. Further it appears that the acknowledgment is also signed in the same address. Therefore the contention of the learned counsel appearing for the revision petitioner cannot be countenanced and further there is no other material brought on record by the accused to dislodge the legal and statutory presumption attached to Ex.P1. Hence this Court does not find any infirmity in the order passed by the first appellate court.

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8 Accordingly, this Criminal Revision Petition is dismissed.

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Sd/-
Assistant Registrar

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Sub-Assistant Registrar

To

1. The IV Additional Sessions Judge,
Chennai.

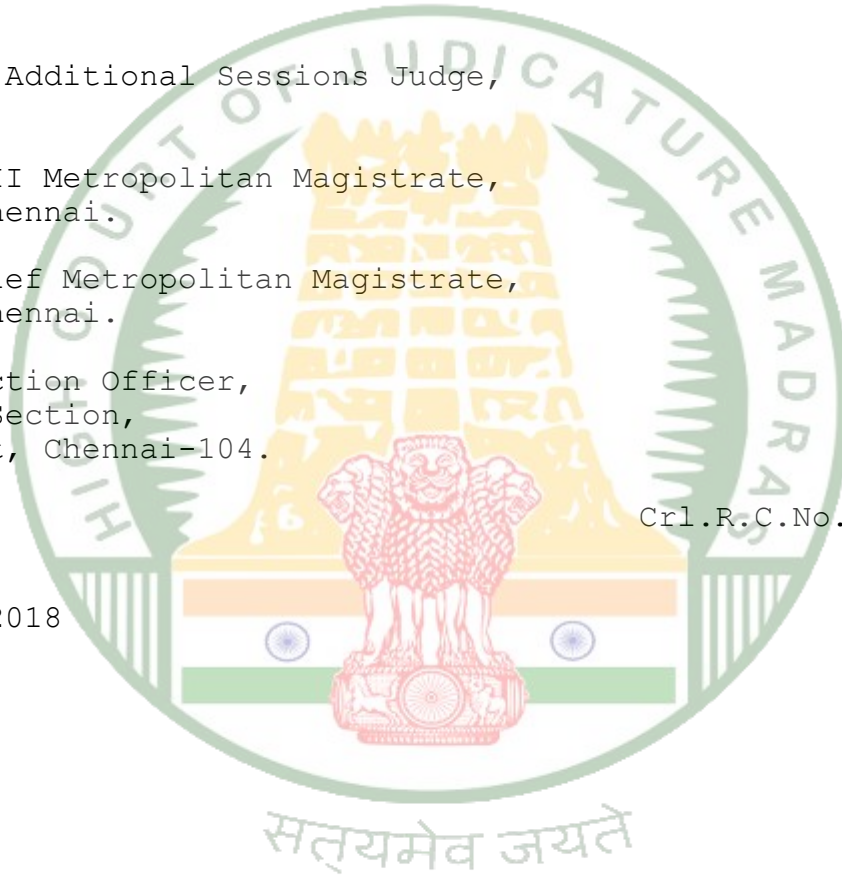
2. The XIII Metropolitan Magistrate,
Egmore, Chennai.

3. The Chief Metropolitan Magistrate,
Egmore, Chennai.

4. The Section Officer,
Criminal Section,
High Court, Chennai-104.

Cr1.R.C.No.841 of 2010

SKS[CO]
MK:28/03/2018



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