

BAIL SLIP

Accused Bosco Fernandes was on Bail by the order of this court made in MP.No.1 of 2012 in CrI.Rc.1355 of 2012, dated 06.11.2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.R.C.No.1355 of 2012

Bosco Fernandes ... Petitioner/Appellant/
Accused

Vs.

1. State represented by
The Public Prosecutor,
Coimbatore. ... Respondent/Respondent
Respondent

2. M/s.Elgi Equipments Limited,
Represented by the
Officer Secretarial,
Mr.U.Kalidoss,
Elgi Industrial Complex,
Singanallur,
Coimbatore - 641 005. ... Respondent/Respondent
Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the judgment and order dated 27.11.2009 passed in C.C.No.87 of 2004 on the file of the Judicial Magistrate Court No.III, Coimbatore, confirmed by the judgment and order dated 15.10.2012 passed in C.A.No.181 of 2009 on the file of the III Additional District and Sessions Court, Coimbatore.

For Petitioner : Mrs.M.Rajamani
for Mrs.M.Srividhya

For R1 : Mrs.P.Kritika Kamal
Govt.Advocate (CrI.Side)

For R2 : No appearance

O R D E R

This criminal revision has been filed seeking to set aside the judgment and order dated 27.11.2009 passed in C.C.No.87 of 2004 on the file of the Judicial Magistrate Court No.III, Coimbatore, confirmed by the judgment and order dated 15.10.2012 passed in C.A.No.181 of 2009 on the file of the III Additional District and Sessions Court, Coimbatore.

2. For the sake of convenience, the petitioner and the second respondent will be referred to as accused and complainant, respectively.

3. The complainant initiated a prosecution in C.C.No.87 of 2004 before the Judicial Magistrate No.III, Coimbatore, for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the NI Act"), against the accused, in which, the trial Court, by judgment and order dated 27.11.2009, convicted the accused of the said offence and sentenced him to undergo one year simple imprisonment and to pay twice the cheque amount as compensation, in default to undergo one year simple imprisonment.

4. The appeal in C.A.No.181 of 2009 filed by the accused was dismissed for default by the III Additional District and Sessions Court, Coimbatore, on 15.10.2012, aggrieved by which, the accused has preferred the present revision invoking Section 397 r/w 401 Cr.P.C.

5. Heard Mrs.M.Rajamani, learned counsel for the accused.

6. In the opinion of this Court, this criminal revision deserves to be allowed, on the short ground, that the appellate Court ought not to have dismissed the appeal for default for the non-appearance of the accused or his counsel as held by the Supreme Court in L.Laxmikanth Vs. State¹.

In the result, this criminal revision is allowed by setting aside the judgment and order dated 15.10.2012 passed in C.A.No.181 of 2009 on the file of the III Additional District and Sessions Court, Coimbatore. The accused and the complainant are directed to appear before the III Additional District and

Sessions Court, Coimbatore, on 20.01.2020 at 10.30 a.m. The appellate Court is directed to dispose of the appeal in C.A.No.181 of 2009 within a period of three months from 20.01.2020. If the accused does not cooperate, the appellate Court may appoint an Advocate from the Legal Services Authority, go through the records and pass orders on merits.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate No.III,
Coimbatore.
2. Do Through Chief Judicial Magistrate,
Coimbatore.
3. The III Additional District and
Sessions Judge,
Coimbatore.
4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.
5. The Deputy Registrar, with a direction to return the
(Crl.Side) original records to the appellate
Madras High Court, court immediately
Chennai - 104.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mrs.M.Srividhya, Advocate in sr.no.102766 (13.12.2019)

Crl.R.C.No.1355 of 2012

PA(CO)
CS/10/12/2019