



Bail Slip

The Petitioner/Appellant/Accused viz., Pavachi, aged 54 years, S/o.Kuppan was directed to be released on bail 28.02.2014 in MP(MD)2 of 2014 in Cr1.RC(MD)No.169 of 2014 on the file of this Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.11.2019

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Cr1.R.C. (MD)No.169 of 2014

Pavachi : Petitioner/Appellant/Accused

Vs.

Ponnarasu : Respondent/Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 read with 401 of the Criminal Procedure Code to call for the records relating to the order passed in C.A.No.88 of 2010, dated 26.06.2013, by the learned III Additional District Judge, Trichy, confirming the conviction and sentence dated 26.07.2010 passed by the Judicial Magistrate No.2, Trichy, and set aside the same.

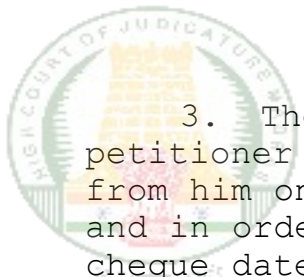
For Petitioner : Mr.N.Anandakumar

For Respondent : No Appearance

JUDGMENT

This criminal revision case is filed as against the concurrent findings on a complaint instituted under Section 138 of the Negotiable Instruments Act.

2. The trial Court, namely, the learned Judicial Magistrate No.2, Trichy, found this petitioner guilty under Section 138 of the Negotiable Instruments Act in C.C.No.367 of 2007 and by order dated 26.07.2010, convicted and sentenced him to undergo rigorous imprisonment for six months and to pay a fine of Rs.5000/-, i/d to undergo simple imprisonment for two months. As against the conviction and sentence, the petitioner has preferred an appeal and the learned III Additional District Judge, Trichy, by order dated 26.06.2013, in C.A.No.88 of 2010 confirmed the conviction and sentence imposed by the trial Court. Aggrieved over the same, the petitioner has preferred the instant revision case.



3. The case of the respondent / complainant is that the petitioner / accused borrowed a sum of Rs.1,50,000/-, as hand loan from him on 10.12.2006, agreeing to repay the same within two months and in order to discharge the said liability, had also handed over a cheque dated 09.02.2007. When the respondent / complainant presented the said cheque, the same was returned with an endorsement 'insufficient funds'. Therefore, the complainant, after issuing a notice calling upon the petitioner / accused to make the payment as required under Clause (b) of the proviso to Section 138 of the Negotiable Instruments Act, filed the complaint, after the statutory period. Both the Courts below have found the petitioner / accused guilty and aggrieved, the petitioner has preferred the instant revision case.

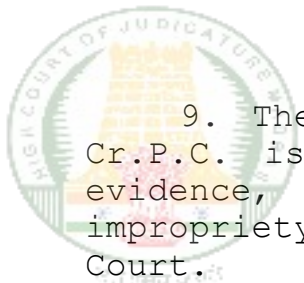
4. Heard Mr.N.Anandakumar, learned Counsel for the petitioner / accused. There is no representation for the respondent / complainant.

5. Mr.N.Anandakumar, learned Counsel for the petitioner / accused contended that the petitioner has not borrowed any loan at all, as alleged by the complainant. He would further submit that according to the complainant, he has lent the sum of Rs.1,50,000/- on 10.12.2006, but, from 09.12.2006 to 11.12.2006, the petitioner along with one Radha [DW1] went to Kombakadu Village. Therefore, the learned Counsel would contend that a false case has been foisted against him and prays for interference.

6. This Court has paid it's anxious consideration to the submissions made by the petitioner's Counsel and also to the documents placed on record.

7. Perusal of record shows that the respondent / complainant, in support of his case, examined himself as PW1 and marked five documents.

8. The petitioner / accused has not examined himself as a defence witness and has examined one Radha [DW1]. But the said Radha has not supported the case of the defence. Moreover, the petitioner has not specifically denied the issuance of cheque or the signature in it. The cheque in question was marked as Ex.P1; the bank return memo was marked as Ex.P2; the copy of the notice was marked as Ex.P3; the postal receipt was marked as Ex.P5 and the acknowledgment card was marked as Ex.P4, which clearly speak about the issuance of cheque by the petitioner to the tune of Rs.1,50,000/-. The petitioner / accused has not denied anything and has failed to prove his case. The petitioner / accused has not even sent any reply notice negating the respondent's legal notice [Ex.P3], though he received the same. The only ground taken by the petitioner is that the complaint was foisted by the respondent, using the subject cheque [Ex.P1], on the instigation of one Duraisamy. But the said



9. The scope of Criminal Revision under Section 397 r/w 401 Cr.P.C. is very limited and this Court cannot re-appreciate the evidence, unless and until there is a illegality, perversity or impropriety in the findings of the trial Court and the appellate Court.

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10. This Court in **Anbarasu Vs Mukanchand Bothra**, reported in **2019 (3) MWN (Cr) DCC 1(Mad)**, has held that while exercising the revisional powers under Section 397 r/w 401 Cr.P.C., the Court is required to find out whether there is any illegality or impropriety in the findings of the trial Court and the appellate Court warranting interference and it is not open to this Court to exercise the revisional power as a second appellate forum.

11. The petitioner / accused has not made out any ground to show that there is any illegality, perversity or impropriety in the findings of the Courts below. In such view of the matter, this Court is not inclined to interfere with the order passed by the learned Judicial Magistrate No.2, Trichy, in C.C.No.367 of 2007, dated 26.07.2010, as confirmed by the learned III Additional District Judge, Trichy, in C.A.No.88 of 2010, dated 26.06.2013.

12. In fine, this Criminal Revision Case is dismissed. Since the petitioner / accused is on bail, the trial Court is directed to secure and confine him, in accordance with law. Bail bonds, if any executed, shall stand terminated.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The III Additional District Judge,
Trichy.

2.The Judicial Magistrate No.2,
Trichy.

3.The Chief Judicial Magistrate,
Trichy.

4.The Principal District Judge,
Trichy.



5.The Superintendent,
Central Prison,
Trichy.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2)

Cr1.R.C. (MD) No.169 of 2014
04.11.2019

TP (CO)
CS (06.01.2021) 4P 9C