

Bail Slip

The Petitioner/Accused Mrs.K.Reggi, W/o.A.George, was released on bail as per the order of this Court dated 23.07.2015 made in MP (MD) .No.1 of 2015 in Cr1.RC(MD) .No.303 of 2015.

WEB COPY

BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 19.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 303 OF 2015

K.Reggi

.. Petitioner

- Vs -

1. Perumal Nadar

2. The State of Tamil Nadu
rep. by the Public Prosecutor
Nagercoil.

.. Respondents

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 15.6.2015, passed by the Court of Sessions, Kanyakumari Division @ Nagercoil, in C.A. No.107 of 2011 by confirming the judgment of conviction and sentence dated 23.09.2011, passed in STC.No.4012/2006 on the file of Judicial Magistrate No.III, Nagercoil.

For Petitioner : Mr. J.John Jayakumar

For Respondents : Ms. M.Anantha Devi,
GA (Cr1. Side) for R-2

No Appearance for R-1

ORDER

The present revision has been filed against the dismissal of the appeal for default by the lower appellate court confirming the order passed by the trial court.



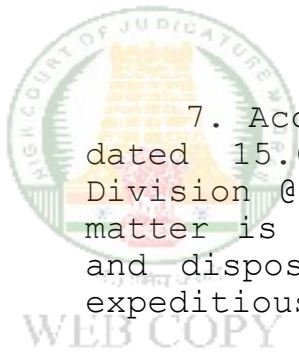
2. It is the case of the petitioner herein that in respect of the offence u/s 138 of the Negotiable Instruments Act, the petitioner was proceeded with before the trial court in S.T.C. No.4012/2006, and after trial, the petitioner was convicted and sentenced to rigorous imprisonment for a period of three months and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for a period of fifteen days. Against the said conviction and sentence, the petitioner preferred appeal in C.A. No.107/2011 before the Court of Sessions, Kanyakumari. However, the appellate court, vide order dated 15.6.2015, dismissed the appeal for default on the ground that there was no representation for the petitioner and the petitioner was also not present and also further recorded that the process fee in respect of the 1st respondent was not paid. Challenging the same, the present revision has been filed.

3. It is the submission of the learned counsel appearing for the petitioner that though process fee has already been paid and that the complainant has also entered appearance, however, erroneously the appellate court has dismissed the appeal for default and, therefore, to render substantial justice, the order has to be set aside and the matter should be remitted back to the appellate court for disposal of the same on merits.

4. Though the respondent has been served, however, there is no representation for the respondent and therefore, this Court had ordered printing of the name of the respondent in the cause list. Accordingly, the name of the respondent is printed in the cause list. Even today, there is no representation for the respondent.

5. However, in view of the order which this Court proposes to pass, it is not necessary to hear the respondent. Heard the learned counsel appearing for the petitioner.

6. Whether the statement made across the bar by the learned counsel for the petitioner regarding the appearance of the petitioner and payment of process fee is true or not, this Court is not inclined to go into the same. However, in order to give an opportunity to the petitioner to have the appeal decided on merits, considering the above submission and the averments contained in the affidavit filed in support of the revision petition, this Court is inclined to allow this petition by setting aside the impugned order and remanding the matter back to the appellate court.



7. Accordingly, this revision petition is allowed and the order dated 15.6.2015, passed by the Court of Session, Kanyakumari Division @ Nagercoil, in C.A. No.107 of 2011 is set aside and the matter is remitted back to the file of the said Court for hearing and disposing the same on merits and in accordance with law as expeditiously as possible.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

GLN

To

1.The Sessions Judge,
Kanyakumari Division @ Nagercoil.

2.The Judicial Magistrate No.III, Nagercoil.

3.The Chief Judicial Magistrate, Kanyakumari at Nagercoil.

4.The Public Prosecutor, Nagercoil.

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

Copy to:

The Section Officer, (2 Copies),
Criminal Records,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.JOHN JAYAKUMAR, Advocate (SR-99258[F] dated 19/11/2019)

CRL. R.C. (MD) NO. 303 OF 2015
19.11.2019

JMN(05.12.2019) 3P : 9C