

**BAIL SLIP**

The Revision Petitioner/Accused viz., Suthakar, S/o. Vethaiyan is released on bail as per the order of this Court on 14.06.2013 passed in MP(MD)No.2 of 2013 in CRL RC(MD)No.478 of 2013 on the file of this Court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2019

CORAM:

**THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN**Crl.R.C. (MD)No.478 of 2013

Suthakar

.. Petitioner/Appellant/  
Accused

Vs.

K.Rajagopal

.. Respondent/Respondent/  
Complainant

**Prayer :** This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records of the learned I Additional District and Sessions Judge (PCR Court), Thanjavur, in Crl.A.No.19 of 2011 by Judgment dated 24.08.2012 confirming the conviction and sentence imposed by the learned Judicial Magistrate No.III, Thanjavur, in C.C.No.224 of 2010 by the Judgment dated 25.01.2011 and set aside the Judgment of the Courts below and acquit the petitioner.

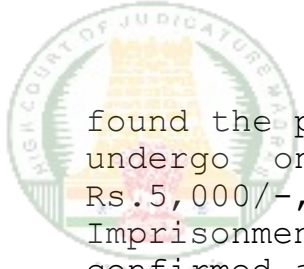
For Petitioner : Mr.A.Arun Prasad

For Respondent : Mr.M.S.Sureshkumar

\*\*\*

**ORDER**

The petitioner herein had issued Ex.P.5 Cheque dated 30.03.2008 for a sum of Rs.2,75,000/- in favour of the complainant Rajagopal. When the cheque was presented for collection, it was dishonoured. The complainant issued statutory notice. The petitioner received the same and issued a reply. But the demands set out in the statutory notice was not complied with. Hence, the complainant filed C.C.No.224 of 2010 on the file of the learned Judicial Magistrate No.3, Thanjavur, for the offence under Section 138 of the Negotiable Instruments Act. The petitioner herein pleaded not guilty to the charge. Thereupon, the complainant examined himself and one Vijayakumar as P.W.1 and P.W.2. Ex.P.1 to Ex.P.13 were marked. On the side of the accused, no evidence was adduced. The learned trial Magistrate after a detailed consideration of the evidence on record,



found the petitioner guilty of the said offence and sentenced him to undergo one year Rigorous Imprisonment and levied a fine of Rs.5,000/-, in default, he was sentenced to three months Simple Imprisonment. This Judgment of the learned trial Magistrate was confirmed as such by the appellate Court in C.A.No.19 of 2011 on the file of the learned I Additional Sessions Judge(PCR), Thanjavur. Challenging the Judgment dated 24.08.2012 passed by the appellate Court, this Criminal Revision has been filed.

2. After hearing the rival contentions and going through the evidence on record, I am of the view that the concurrent findings of the Courts below with regard to the guilt of the Revision petitioner do not warrant any interference. However, some indulgence can be shown in the matter of sentence. It is seen that the first appellate Court dismissed C.A.No.19 of 2011 by Judgment dated 24.08.2012. The Revision case has been filed only in April 2013. Bail was granted to the petitioner only on 14.06.2013. It is thus seen that the petitioner was in custody for over 84 days. That apart, from the material filed by the learned counsel, it is seen that the parties had agreed that the quantum of punishment will be reduced, if the accused paid a sum of Rs.1,60,000/- to the complainant without prejudice to his rights.

3. Taking note of these aspects and the fact that the petitioner was in incarceration for 84 days, I am of the view that the sentence of imprisonment imposed on the petitioner can be modified and reduced to the period already undergone by him. The sentence of fine is set aside. However, the petitioner's counsel undertakes that he would not file any application for refund of the fine amount. Instead the petitioner is directed to deposit a sum of Rs.1,60,000/- (Rupees One Lakh and Sixty Thousand only) to the credit of C.C.No.224 of 2010 on the file of the learned Judicial Magistrate No.3, Thanjavur, within a period of three months from the date of receipt of a copy of this order, as compensation to be paid to the complainant. If the petitioner fails to make a deposit of Rs.1,60,000/- as compensation within the period stipulated above, the petitioner will have to undergo three months Simple Imprisonment as default sentence.

4. With this modification, the Criminal Revision stands partly allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Principal Sessions Judge, Thanjavur District at Kumbakonam.
2. The I Additional District and Sessions Judge (PCR Court),  
Thanjavur.
3. The Judicial Magistrate No. III,  
Thanjavur.
4. Do Thro The Chief Judicial Magistrate, Thanjavur at Kumbakonam
5. The Superintendent,  
Central Prison, Trichy.
6. The Superintendent of Police, Thanjavur District.
7. 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 Copies)

+1 CC to M/s. M.S. SURESH KUMAR, Advocate ( SR-73843[F] dated  
08/07/2019 )

CrI. R.C. (MD) No. 478 of 2013

04.07.2019

\_KK/SAR/19.08.2019/3P-11C/