

BAIL SLIP

The Appellant/Accused namely, M.Vairavel, S/o.Mookaiya, Was released on bail on by order dated 09/11/2012, in Mp.1/2012 in CrI.RC.No. 1367 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.R.C.No.1367 of 2013

M.Vairavel ..Petitioner/Appellant/ Accused
S/O.Mookaiya

Vs.

M/s.Sree Gokulam Chit Finance
Co., (P) Ltd.,
Represented by its Managing Director
and Foreman,
Represented by its Power Agent
Mr.Harikrishnan,
S/o.Ramasamy,
100 Feet Road, 7th Street,
Gandhipuram,
Coimbatore - 12.

.. Respondent/Respondent/
Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the judgment and order dated 15.03.2012 passed in C.C.No.7 of 2011 on the file of the Judicial Magistrate Court (Fast Track Court No.II), Coimbatore, confirmed by the judgment and order dated 28.08.2012 passed in C.A.No.117 of 2012 on the file of the III Additional District and Sessions Court, Coimbatore.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondent : Mr.L.Rajasekar

O R D E R

This petition has been filed seeking to set aside the judgment and order dated 15.03.2012 passed in C.C.No.7 of 2011 on the file of the Judicial Magistrate Court (Fast Track Court No.II), Coimbatore, confirmed by the judgment and order dated 28.08.2012 passed in C.A.No.117 of 2012 on the file of the III

Additional District and Sessions Court, Coimbatore.

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

3. It is the case of the complainant that the accused had taken two chits for Rs.1,00,000/- each, vide Ticket Nos.252/5 and 515/5, towards which, he was due a sum of Rs.1,02,300/-; towards the debt, the accused issued a cheque (Ex-P2) dated 17.12.2005 bearing no.563949 drawn on South Indian Bank, which was dishonoured on 21.12.2005 vide bank's return memo (Ex-P3) on the ground "Funds Insufficient"; therefore, the complainant issued a statutory demand notice (Ex-P5) dated 29.12.2005; since the accused did not comply with the demand, the complainant initiated a prosecution in C.C.No.228 of 2006 before the Judicial Magistrate Court No.V, Coimbatore, for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the NI Act"), against the accused.

4. The case was transferred to the file of the Judicial Magistrate Court (Fast Track Court No.II), Coimbatore and was re-numbered as C.C.No.7 of 2011.

5. The trial Court, by judgment and order dated 15.03.2012 in C.C.No.7 of 2011, convicted the accused of the offence under Section 138 of the NI Act and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.4,000/-, in default to undergo two months simple imprisonment.

6. The appeal in C.A.No.117 of 2012 filed by the accused was dismissed by the III Additional District and Sessions Court, Coimbatore, on 28.08.2012.

7. Challenging the concurrent findings of fact arrived at by the Courts below, the accused has filed the present revision invoking Section 397 r/w 401 Cr.P.C.

8. Heard Mr.B.Nedunchezhiyan, learned counsel for the accused and Mr.L.Rajasekar, learned counsel for the complainant.

9. When the matter was taken up hearing, the learned counsel for both sides submitted that the matter has been amicably settled and they have also filed a joint memorandum of compromise dated 03.01.2020, signed by the parties and their respective counsel.

10. The terms of the joint memorandum of compromise reads as under:

"The petitioner respectfully states that Learned Judicial Magistrate Fast Track Court at Magisterial Level-II, Coimbatore, passed an order

against this petitioner, convicted and sentenced to undergo 6 months imprisonment and to pay a fine of Rs.4,000/-, in default simple imprisonment for two months offence under Section 138 of N.I. ACT on 15.03.2012. Thereafter, this petitioner aggrieved by the judgment passed by Learned Judicial Magistrate Fast Track Court at Magisterial level - II at Coimbatore has preferred appeal before the III Additional District and Sessions Judge at Coimbatore in Criminal Appeal No.117 of 2012 and subsequently the Appellate Court also confirmed with order of Judicial Magistrate, Fast Track Court at Magisterial Level - II at Coimbatore on 28.08.2012. Thereafter this petitioner preferred this criminal revision in Crl.R.C.No.1367 of 2012 against order of III Additional and District Sessions Judge at Coimbatore and during pendency of the proceedings before this Hon'ble Court the matter was settled and payment on default was fully paid by the revision petitioner for the amount of Rs.1,02,300/- by out of Court to the satisfaction of the respondent. So, this revision petitioner and respondent herein has come forward to file this joint Memo before this Hon'ble Court to compound the offence and acquit the revision petitioner and same was acknowledge by both parties."

11. In view of the above, the offence under Section 138 of the NI Act stands compounded under Section 147, ibid and the accused is acquitted of the said charge. The judgment and order dated 15.03.2012 passed in C.C.No.7 of 2011 on the file of the Judicial Magistrate Court (Fast Track Court No.II), Coimbatore, confirmed by the judgment and order dated 28.08.2012 passed in C.A.No.117 of 2012 on the file of the III Additional District and Sessions Court, Coimbatore, are hereby set aside.

In fine, this criminal revision is allowed. The bail bond executed by the accused shall stand cancelled. Fine amount, if any, paid by the accused shall be refunded. The Registry is directed to return the original records to the Courts below concerned.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Nsd

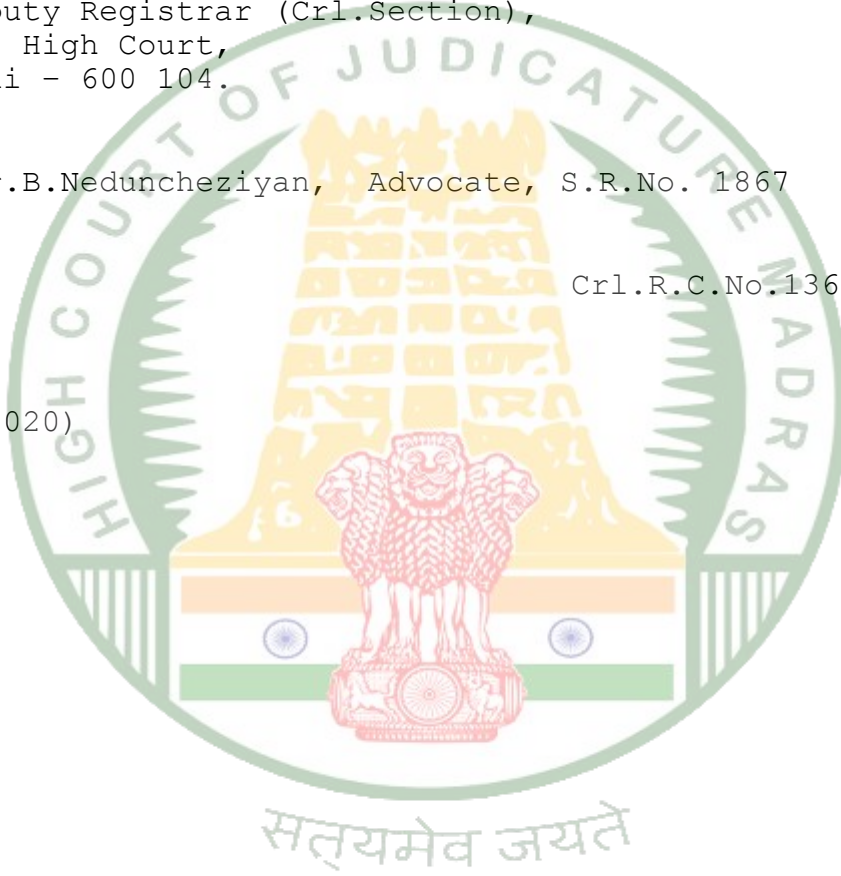
To

1. The Judicial Magistrate,
(Fast Track Court No.II),
Coimbatore.
- 2.The Chief Judicial Magistrate,
Coimbatore.
3. The III Additional District and Sessions Judge,
Coimbatore
4. The Deputy Registrar (Crl.Section),
Madras High Court,
Chennai - 600 104.

+lcc to Mr.B.Nedunchezian, Advocate, S.R.No. 1867

Cr1.R.C.No.1367 of 2012

PVS (CO)
GN(10/02/2020)



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