

Bail Slip

The Petitioner/Accused viz K. Nataraj, was directed to be released on bail as per order of this Court dated 18.05.2012 in M.P. No. 1/2012 in Crl.R.C.No.511 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.01.2020

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.No.511 of 2012

K.Nataraj

... Petitioner/
Accused

Vs

A.M.Masilamani

.. Respondent/
Complainant

Criminal Revision preferred under Section 397 r/w 401 Cr.P.C. to set aside the judgment and order dated 31.01.2012 passed by the I Additional District and Sessions Judge, Coimbatore in C.A.No.36 of 2011 confirming the judgment and order dated 19.01.2011 passed by the Judicial Magistrate No.III, Coimbatore in S.T.C.No.129 of 2009.

For Petitioner : Mr.M.Guruprasad

O R D E R

On 29.11.2019, this Court passed the following order :

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

2. It is the case of the complainant that the accused has taken a hand loan of Rs.1,10,000/- on 24.03.2007, towards which, the accused issued a cheque (Ex-P1) dated 26.02.2008; when the complainant presented the said cheque (Ex-P1), it was returned unpaid with the endorsement "Insufficient Funds"; therefore, the complainant issued a statutory demand notice (Ex-P4) dated 25.03.2008; since the accused did not comply with the demand, the complainant initiated

a prosecution in S.T.C.No.129 of 2009 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.

3. Before the trial Court, the complainant examined himself as PW1 and marked six exhibits.

4. When the accused was questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against him, he denied the same. On behalf of the accused, three witnesses were examined and three exhibits were marked.

5. After considering the evidence on record and hearing either side, the trial Court, by judgment and order 19.01.2011 in S.T.C.No.129 of 2009, convicted the accused of the offence under Section 138 of the NI Act and sentenced him to undergo one year simple imprisonment and to pay a sum of Rs.2,000/-, in default to undergo three months simple imprisonment. The accused was further sentenced to pay double the cheque amount as compensation to the complainant after the appeal period.

6. The appeal in C.A.No.36 of 2011, filed by the accused was dismissed by the I Additional District and Sessions Court, Coimbatore, on 31.01.2012.

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

8. Heard Mrs.Elizabeth Ravi, learned counsel for the accused and Mr.T.Sundaravadanam, learned counsel for the complainant.

9. Mrs.Elizabeth Ravi, learned counsel for the accused submitted that the complainant has received a sum of Rs.1,10,000/- as full and final settlement and has issued a receipt to that effect. She also submitted a copy of the receipt and prayed for compounding of the offence.

10. Mr.T.Sundaravadanam, learned counsel for the complainant submitted that he has no instructions in this regard. He further submitted that the complainant

is aged about seventy six years and he cannot travel from Coimbatore to Chennai.

11. Admittedly, both the parties are in Coimbatore. Therefore, this Court issues the following directions:

(i) The accused and the complainant shall appear before the Secretary, District Legal Services Authority, Coimbatore, on a day, fixed by the Secretary and record the compromise;

(ii) Thereafter, the Secretary, District Legal Services Authority, Coimbatore District, shall send a report and a memorandum of compromise to this Court, so that, this Court can pass final orders under Section 147 of the NI Act; and

(iii) This exercise shall be completed within two weeks from the date of receipt of a copy of this order.

Post the matter on 06.01.2020."

2. When the matter was taken up for hearing today, learned counsel for the parties submitted that the parties appeared before the District Legal Services Authority, Coimbatore on 18.12.2019 and 26.12.2019 and settled the matter. They have also filed a memo dated 07.01.2020 to that effect.

3. Further, pursuant to the order of this Court dated 29.11.2019, the Secretary, District Legal services Authority, Coimbatore District has submitted a report dated 02.01.2020, wherein, it is stated as under :

"On 26.12.2019 both parties and both side counsel present. Both the parties are identified by their respective counsel. The terms of compromise read over and explained to both parties. Accordingly, the complainant had already received a sum of Rs.1,10,000/- towards the full and final settlement of his dues from the accused. Further the complainant has no objection to set aside the order of conviction against the accused. I have thus obtained the signature of both parties of their counsels and recorded the compromise in compliance to the order of Hon'ble High Court of Madras in Criminal Revision Case No.511/2019 dated 29.11.2019 of thus submitting my report."

In view of the above, the offence stands compounded under Section 147 of the NI Act and the accused is acquitted.

In the result, this Criminal Revision is allowed and the orders dated 19.01.2011 and 31.01.2012 passed by the trial Court and the appellate Court respectively, are set aside. The Registry is directed to transmit the original records to the respective Courts forthwith.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.I Additional District and Sessions Court
Coimbatore

2.Judicial Magistrate No.III
Coimbatore

3.The Deputy Registrar
Criminal Side
High Court, Madras

+1 CC to Mr.T.Sundaravadanam, Advocate sr 1628

CRL.R.C.No.511 of 2012

RR (CO)
SP (25/02/2020)

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