Bail Slip

The Petitioner herein/Accused viz., Rajendran, S/o.Ayyadurai, was released on bail vide be order of this Court, dated 09.08.2016 in Crl.MP.No.7829/2016 in Crl.RC No.981/2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.No.981 of 2016

Rajendran ... Petitioner

Vs.

Ravichandran ... Respondent

Prayer: Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the conviction and sentence passed by the learned Judicial Magistrate cum Fast Track Court, Tiruppur in C.C.No.96 of 2014 dated 12.10.2015 and confirmed by the judgment and decree of the learned I Additional District and Sessions Judge, Tiruppur in C.A.No.102 of 2015 dated 08.06.2016.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.S.Gunalan

O R D E R

The petitioner herein is the accused and the respondent herein is the complainant. On a complaint given by the complainant against the petitioner before the Trial Court under Section 138 of the Negotiable Instruments Act, the same was taken on file and the accused was found guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly he was convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.1,000/- in default to undergo further simple imprisonment for a period of one month. Challenging the same, the petitioner preferred an appeal before the I Additional District and Sessions Judge,

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

Tiruppur, which ended in dismissal, against which the present Criminal Revision Case has been filed.

2.The learned counsel for the petitioner has submitted that the learned trial Judge failed to note that the respondent had no sufficient means to pay Rs.2,00,000/- to the petitioner and that the respondent did not file any document to prove his capacity to pay the said amount. He also submitted that even though the case of the respondent is only on the basis of pro-note, the same was not produced at the time of evidence and the document produced by the respondent is a fabricated one. Stating so, the learned counsel prayed for allowing this revision.

3.The learned counsel for the respondent has submitted that the Trial Court has correctly considered the materials and evidence and has passed the impugned judgment and the findings of the Trial Court have been rightly confirmed by the Lower Appellate Court and hence the judgments of the Courts below do not require any interference in the hands of this Court.

4.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

5.After a threadbare analysis of the materials on record, the Trial Court has observed that as per Section 146 of the Negotiable Instruments Act, the cheque issued by the petitioner / accused has been returned and further the signature found in the cheque has been accepted by the accused and hence, as per Sections 118 and 139 of the Act, at the first instance, presumption goes in favour of the complainant. The Trial Court has also observed that the burden of proof is on the accused to prove that he was not residing in the address mentioned in the Advocate's Notice (Ex.P3), but since the accused in his evidence, has deposed that he was residing in the said address, the contention of the accused that the respondent had not sent the statutory notice to his correct address, cannot be acceptable. Finally, it has been observed that the accused had not proved his case properly through the materials and evidence adduced on his side. The Lower Appellate Court has also dealt with the case properly and correctly confirmed the findings rendered by the Trial Court on merits. This Court is not inclined to interfere with the said factual concurrent findings rendered by the Courts below.

6.In the result, the Criminal Revision Case is dismissed being devoid of merits. The Trial Court is directed to secure the accused and commit him in prison to undergo the remaining period of sentence, if any. If any amount has been deposited by the accused either in the appellate Court or in the Trial Court in connection with this case, the same shall be

https://hcservices.ecourts.gov.in/hcservices/

disbursed with accrued interest to the complainant or to his legal heirs, as the case may be. It is always open to the parties to file an application before the Trial Court under Section 147 of the Negotiable Instruments Act for compounding the offence, even after the accused is taken into custody. In the event of the matter being compounded under Section 147, ibid, before the Trial Court, the Magistrate shall send a report to the Assistant Registrar (Crl.Side) of this Court, who shall make it form part of the records in Crl.R.C.No.98 of 2016. Registry is directed to transmit the original records if any, to the respective Courts forthwith.

Sd/-
Assistant Registrar(CS-I)

//True copy//

Sub Assistant Registrar

KM

To

1.The Judicial Magistrate cum Fast Track Court,
Tiruppur.

2.The I Additional District and Sessions Judge,
Tiruppur

3.The Public Prosecutor,
Madras High Court.

4. The Assistant Registrar (Crl.Side)
Criminal Section,
High Court, Madras

+1cc to Mr.J.Franklin, Advocate SR.No.8385

+1cc to Mr.S.Gunalan, Advocate SR.No.8756

Crl.R.C.No.981 of 2016

SSV(CO)

GMY(09/03/2020)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/