

Bail Slip

The Accused viz K. Sivakumar, S/o. Kannan, was enlarged on bail vide order in CrI.M.P.No.6435/2017 in CrI.R.C.No.675/2017 dated 10.05.2017 on the file of this Hon'ble Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

CrI.R.C.No.675 of 2017
and CrI.M.P.No.6486 of 2017

K.Sivakumar

... Petitioner

Vs.

S.Suresh Nirmal Kumar

... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the judgment dated 06.03.2017 in CrI.A.No.26 of 2014 on the file of the Principal District and Sessions Judge, Vellore, Vellore District, confirming the judgment in C.C.No.112 of 2013 dated 18.02.2014 on the file of the Judicial Magistrate, Fast Track Court, Vellore, Vellore District.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mrs.Vanathi Srinivasan

ORDER

The petitioner herein is the accused and the respondent herein is the complainant. On a private complaint given by the complainant against the petitioner under Section 138 of the Negotiable Instruments Act, the same was taken on file as C.C.No.112 of 2013 on the file of the Judicial Magistrate, Fast Track Court, Vellore, Vellore District 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 six months and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for one month. Challenging the same, the petitioner has preferred an appeal before the Principal District and Sessions Judge,

Vellore, Vellore District, 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 Courts below failed to appreciate that the petitioner had not committed the offence under Section 138 of the Negotiable Instruments Act and that the complainant had failed to establish a legally enforceable debt in respect of the amount covered by the cheque in question to the tune of Rs.1,00,000/-. It is submitted that the Trial Court failed to note the contradictions present in the material evidence adduced on the side of the respondent.

3.The learned counsel for the respondent has submitted that the Trial Court has considered the materials and evidence in proper perspective and has passed the impugned order and hence the same does not require any interference in the hands of this Court.

4.Heard the learned counsel on either side and perused the papers.

5.After a threadbare analysis of the materials and evidence available on record, the Trial Court has observed that the cheque in question amounting to Rs.1,00,000/- has been given by the accused to the complainant in return of the money borrowed from the complainant for a business purpose, and the same has been proved by the evidences adduced by the witnesses. Further, the Trial Court has given a finding that the cheque got bounced only due to insufficiency of funds. Furthermore, notice in respect of bouncing of cheque as per Section 138(b) of the Negotiable Instruments Act has been properly sent by the complainant to the accused and the charge against the accused has been proved beyond reasonable doubt.

6.The Trial Court has considered the materials and evidence in a proper perspective and has rendered the above factual findings. 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.

7.In the result, the Criminal Revision Case is dismissed being devoid of merits. Consequently, the connected miscellaneous petition is closed. 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 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.675 of 2017. Registry is directed to transmit the original records if any, to the respective Courts forthwith.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

KM

To

- 1.The Principal District and Sessions Judge,
Vellore, Vellore District.
- 2.The Judicial Magistrate,
Fast Track Court, Vellore, Vellore District.
- 3.The Public Prosecutor,
Madras High Court.
- 4.The Chief Judicial Magistrate, Vellore.
- 5.The Assistant Registrar, Criminal Section,
High Court, Madras.

+1cc to Mr.E.Kannadasan, Advocate (SR.No.17501)

Cr1.R.C.No.675 of 2017
and Cr1.M.P.No.6486 of 2017

CP(CO)
BRI(21.05.2020)
SP(16/07/2020)