

Bail Slip

The Criminal Revision Petitioner/Accused viz., M.K.G.Selvakumar, Male, Son of Gurusamy Nadar, was directed to be released on bail vide Order dated 10.03.2016 and made in Crl.M.P(MD)No.2014/2016 in Crl.R.C.(MD)No.128 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.R.C. (MD)No.128 of 2016

M.K.G.Selvakumar

... Revision Petitioner/
Appellant/Accused

versus

Ramaiah

... Respondent/Respondent/
Complainant

PRAYER:Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C. against the Judgment dated 22.07.2015 made in C.A.No.22 of 2014 on the file of the Principal Sessions Court, Theni, confirming the conviction and sentence passed in Judgment dated 30.07.2013 in S.T.C.No.6 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court, Uthamapalayam.

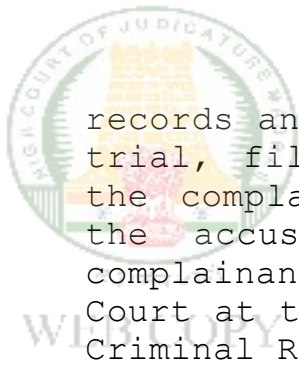
For Revision Petitioner	: Mr.M.Karunanithi
	Legal Aid Counsel
For Respondent	: Mr.D.Saravanan

ORDER

This Criminal Revision Case is filed against the Judgment dated 22.07.2015 made in C.A.No.22 of 2014 on the file of the Principal Sessions Court, Theni, confirming the conviction and sentence passed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, in S.T.C.No.6 of 2012, on 30.07.2013.

2. Mr.M.Karunanithi, learned counsel, appointed by this Court as Amicus Curiae, submits that the revision petitioner was tried before the learned Judicial Magistrate, Fast Track Court, Uthamapalaym, in S.T.C.No.6 of 2012, for the offence punishable under Section 138 of the Negotiable Instruments Act and in conclusion of trial, the trial Court found the revision petitioner guilty, convicted and sentenced to undergo three months simple imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo one month simple imprisonment.

3. Mr.M.Karunanithi, learned counsel fairly submits that during the trial, the accused/revision petitioner failed to cross examine the complainant, which was also taken as a ground before the Appellate Court and the Appellate Court has also verified the



records and found that the accused/revision petitioner, during the trial, filed an application under Section 311 Cr.P.C. to recall the complainant and the same was allowed and despite the same, the accused/revision petitioner failed to cross examine the complainant and this ground is rightly answered by the Appellate Court at the stage of appeal itself, however, on this ground, this Criminal Revision Case has also been filed.

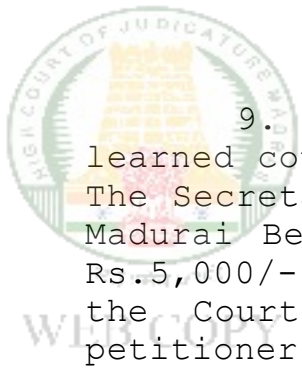
4. Mr.M.Karunanithi, learned counsel, has also brought to the knowledge of this Court that the Appellate Court has rightly observed that an opportunity was provided to the accused to cross examine the complainant when the proceeding was conducted as a summary trial and also considering the materials placed before it, the Appellate Court has rightly arrived at a conclusion in para 13 of the Judgment, which would expose the manner in which the Appellate Court has proceeded with the appeal. Therefore, this Criminal Revision Case is liable to be dismissed.

5. Mr.D.Saravanan, learned counsel for the respondent, submits that after considering the oral and documentary evidence, both the Courts below have rightly found the revision petitioner guilty and therefore, no interference is called for.

6. Heard Mr.M.Karunanithi, learned counsel for the revision petitioner as well as Mr.D.Saravanan, learned counsel for the respondent.

7. This is a proceeding initiated under Section 138 of the Negotiable Instruments Act, before the learned Judicial Magistrate, Fast Track Court, Uthamapalaym, in S.T.C.No.6 of 2012, wherein, the complainant was examined, but, he was not cross examined by the accused. Therefore, the contention of the complainant has not been refuted by the accused before the trial Court. The accused also filed a petition under Section 311 of Cr.P.C. to recall the complainant and the same was also allowed. Therefore, the accused could not raise this ground at the stage of revision. Further, the averment of the complaint has also not been refuted by the accused. Therefore, the presumption under Section 142 of the Negotiable Instruments Act would apply in this case. Hence, the Criminal Revision Case deserves to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed, confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, in S.T.C.No.6 of 2012. Bail bonds executed by the accused shall stand cancelled and the trial Court is directed to secure the accused and remand him to prison to serve the rest of the sentence imposed upon him.



9. This Court places its appreciation to Mr.Karurnanithi, learned counsel, for his sincere efforts in representing the case. The Secretary, Tamil Nadu Legal Services Authority attached to the Madurai Bench of Madras High Court, is directed to pay a sum of Rs.5,000/- to the learned counsel, Mr.Karunanithi, who assisted the Court as Legal Aid Counsel on behalf of the revision petitioner.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal District and Sessions Judge,
Theni District, Theni.

2.The Judicial Magistrate,
Fast Track Court,
Uthamapalayam, Theni District.

3.Do Through:
The Chief Judicial Magistrate,
Theni District.

Copy to

The Secretary,
Tamil Nadu Legal Services Authority,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.D. SRAVANAN, Advocate (SR-14586[F] dated 21/08/2020)

Crl.R.C. (MD)No.128 of 2016

20.08.2020

DKS (CO)

KM (29.09.2020) 3P 6C

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