



BAIL SLIP

J.Thomas,S/o Joebai was directed to be released on Bail vide Court order dated 07.06.2016, made in CRL.MP(MD)No.4277 of 2016 in CRL.RC(MD).No.332 of 2016.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C. (MD)No.332 of 2016

J.Thomas	... Petitioner/Appellant/Accused
	Vs.
J.Raja	... Respondent/Respondent/Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records relating to the impugned judgment dated 24.03.2015 made in C.A.No.66 of 2016 on the file of II Additional District Sessions Court, Thoothukudi convicted the petitioner to undergo 6 months Simple Imprisonment and to pay the cheque amount to the complainant within a month and in default to undergo one month Simple Imprisonment for the offences punishable under Section 138 of Negotiable Instrument Act confirming the judgment dated 22.09.2014 in C.C.No.122 of 2014 on the file of the Fast Track Judicial Magistrate, Thoothukudi and to set aside the same and consequently acquit the petitioner.

For Petitioner	: Mr.V.Sasikumar
For Respondent	: No appearance

O R D E R

Heard the learned counsel for the revision petitioner. Though the respondent/complainant had entered appearance, there is no appearance on his behalf.

2.It is seen that the respondent/J.Raja filed S.T.C.No.122 of 2014 before Fast Track Court, Magisterial Level, Thoothukudi for the offence under Section 138 of Negotiable Instruments Act, against the revision petitioner. The case of the complainant is that the accused availed hand loan of Rs.57,500/- in October, 2013, by promising to repay the said amount within a few months. Towards discharge of the said liability, the accused is said to have issued the complaint cheque/Ex.P1, dated 28.01.2014 drawn Bank of Baroda, Thoothukudi Branch favouring the complainant for the said amount. The complainant presented the same on 28.01.2014 for collection. It was returned unpaid on 21.09.2014 with endorsement "funds insufficient". The complainant issued Ex.P.4/legal notice dated 20.02.2014. It was received by the accused and Ex.P.7 reply was also issued. The demands set out in Ex.P4/legal notice was not complied. That led to the institution of the present complaint.



3.The complainant examined himself as P.W.1 and marked Exs.P1 to P7. On side of the accused, Ex.D.1 was marked.

4.The learned Trial Magistrate by judgment dated 22.09.2014 convicted the accused and sentenced him to undergo six months simple imprisonment and also directed him to pay the cheque amount as compensation. The accused filed C.A.No.66 of 2014 before the II Additional District and Sessions Judge, Thoothukudi. By judgment dated 24.03.2015, the Sessions Court/Appellate Court confirmed the conviction as well as sentence and dismissed the appeal. Questioning the same, this criminal revision case has been filed.

5.The learned counsel appearing for the revision petitioner reiterated all the contentions set out in the memorandum of grounds.

6.I am however not in a position to concur with the contentions of the learned counsel for the revision petitioner that the findings of the Courts below suffer from any irregularity or perversity. Therefore, I have no other option to confirm the conviction imposed on the revision petitioner as such. However, as rightly contended by the learned counsel for the revision petitioner, the cheque amount being hardly Rs.57,500/- sentencing the revision petitioner to six months imprisonment appears to be a little harsh and excessive. I am of the view that the accused can be given one more opportunity to pay the cheque amount. The learned counsel for the revision petitioner states that the accused would be able to pay the amount within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, even while confirming the conviction imposed on the revision petitioner, the sentence imposed on the revision petitioner by the Courts below are modified as follows:-

(i) The accused is directed to deposit the cheque amount of Rs.57,500/- (Rupees Fifty Seven Thousand and Five Hundred Only) to the credit of C.C.No.122 of 2014 on the file of Fast Track Court, Magisterial Level, Thoothukudi, within a period of eight weeks from the date of receipt of a copy of this order.

(ii) It is open to the complainant to withdraw the said amount without notice to the accused.

(iii) If the accused fails to deposit the cheque amount within the period stipulated above, the sentence imposed by the Trial Court and confirmed by the Sessions Court will be restored automatically.



7. With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (P&A)

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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 II Additional District & Sessions Court,
Thoothukudi District.
2. Do-Thro-The principal District & Sessions judge,
Tuticorin District
3. The Judicial Magistrate,
Fast Track Court,
Thoothukudi District.
4. DO-Thro-The Chief Judicial magistrate, Tuticorin District.

+1CC to M/s.A.Mohan, Advocate, SR.No.23425 of 2020

Crl.R.C. (MD) No.332 of 2016
30.11.2020

SSS (CO)

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