

**BAIL SLIP**

S.Chandran, S/o. Sakthivel, Male, aged about 41 years/2016
Sole Accused was released on bail vide Court Order dated 10.06.2016
made in CRL MP(MD)No.4334 of 2016 in CRL RC(MD)No.340 of 2016.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANCrl.R.C.(MD)No.340 of 2016

S.Chandran

.. Revision petitioner/
Appellant/Accused

Vs.

M.Thiraviyam

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision petition filed under Sections 397 and 401 of Cr.P.C., to call for the records from the lower Courts and set aside the impugned Judgment dated 21.03.2016 passed by V Additional District and Sessions Judge, Madurai, in Criminal Appeal No.19 of 2015 confirming the conviction and modifying the sentence and ordering the petitioner to undergo sentence till raising of the Court under Section 138 of the Negotiable Instruments Act and further directing the petitioner to pay compensation of Rs.40,000/- to the respondent under Section 357(3) of Cr.P.C. in default to undergo Simple Imprisonment for one month and further directing the petitioner to appear before the Judicial Magistrate No.II(FTC), Madurai on 20.05.2016 for receiving the sentence, and also the Judgment passed by the Judicial Magistrate No.II(FTC), Madurai in S.T.C.No.458 of 2012 dated 19.05.2015 imposing the conviction against the revision petitioner under Section 138 of the Negotiable Instruments Act and sentencing to undergo 8 months Simple Imprisonment besides directing to pay Rs.40,000/- as compensation to the respondent within three months period from the date of conviction under Section 357(b) of Cr.P.C.

For Petitioner : Mr.AR.Jeya Rhuthran

For Respondent : Mr.V.Om Prakash

ORDER

Heard the learned counsel on either side.

2. The revision petitioner was prosecuted by the respondent, namely, Thiraviyam, for the offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.458 of 2012 on the file of the Judicial Magistrate No.II(Fast Track Court), Madurai.



3. The learned trial Magistrate by Judgment dated 19.05.2015 found the petitioner guilty of the said offence and convicted and sentenced him to undergo eight months Simple Imprisonment and also directed to pay the cheque amount of Rs.40,000/- towards compensation. Aggrieved by the same, the revision petitioner filed C.A.No.19 of 2015 before the V Additional District and Sessions Judge, Madurai. The appellate Court modified the sentence imposed on the petitioner as follows:-

"In the result, the appeal is allowed in part.

a) The accused is sentenced till the raising of the Court.

b) The accused is directed to pay a compensation of Rs.40,000/- to the complainant u/s 357(3) Cr.P.C. and in default of payment of the compensation amount the accused should undergo Simple Imprisonment for 1 month.

c) The accused shall appear before the Judicial Magistrate No.II(FTC), Madurai Court on 20.05.2016 for receiving the sentence."

Questioning the same, this criminal revision came to be filed.

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

5. I am not persuaded to hold that the findings of the Courts below are vitiated by any irregularity or perversity. It is seen that the complainant had examined himself as P.W.1 and also marked Ex.P.1 to Ex.P.6. The accused could not deny the signatures attributed to him in the complaint cheques. In fact in the course of cross examination, he admitted that the signatures are very much his signatures.

6. The complainant had also averred that the accused had borrowed a sum of Rs.40,000/- from him in the month of July 2006. Therefore, the presumption under Section 139 of the Negotiable Instruments Act was rightly raised by the Court below against the accused. Though the accused examined himself as D.W.1 and also marked Ex.D.1 to Ex.D.5, the accused could not rebut the presumption raised against him under Section 139 of the Negotiable Instruments Act. I therefore come to the conclusion that the findings of the Courts below that the accused had committed the offence under Section 138 of the Negotiable Instruments Act does not warrant any interference.

7. However, I am of the view that the accused can be given one more opportunity to comply with the order passed by the appellate Court/Sessions Court. Therefore even while confirming the conviction, the sentence imposed on the revision petitioner is modified as follows:-



i) The revision petitioner is directed to deposit the cheque amount of Rs.40,000/- (Rupees Forty Thousand only) to the credit of S.T.C.No.458 of 2012 on the file of the Judicial Magistrate No.II (Fast Track Court), Madurai. within a period of eight weeks from the date of receipt of a copy of this order.

ii) The complainant can withdraw the said amount without notice to the accused. If the accused fails to deposit the cheque amount within the time stipulated above, the sentence imposed on the revision petitioner by the Courts below will be automatically restored.

iii) I make it clear that filing of petition for extension of time will not at all arise.

8. With this modification in the matter of sentence, this criminal revision stands partly allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

pmu

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 V Additional District and Sessions Judge,
Madurai.
2. The Judicial Magistrate No.II (FTC),
Madurai.
3. The Chief Judicial Magistrate, Madurai.
4. The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.V. OM.PRAKASH, Advocate (SR-23613[F] dated 02/12/2020)
Crl. R.C. (MD) No.340 of 2016
30.11.2020