



Bail Slip

C.Kannan, S/o Chellaiah, Male, Sole Accused was released on bail vide court order dated 14.12.2016 made in CRL MP(MD)No 12262 of 2016 in Cr1.R.C. (MD)No.844 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.R.C. (MD)No.844 of 2016

Kannan

.. Petitioner/Appellant/Accused

Vs.

Suresh

.. Respondent/Respondent/Complainant

Prayer : This Criminal Revision petition filed under Sections 397 and 401 of Cr.P.C., to set aside the Judgment made in C.A.No.31 of 2012 by the Fast Track Mahila Court, Sivagangai, dated 09.11.2016 confirming the Judgment of conviction and sentence made in C.C.No.116 of 2007 by the Principal District Munsif cum Judicial Magistrate, Karaikudi, dated 02.07.2012.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.D.Ramesh Kumar

ORDER

Heard the learned counsel on either side.

2. The respondent Suresh filed C.C.No.116 of 2007 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi, against the petitioner for the offence under Section 138 of the Negotiable Instruments Act.

3. The case ended in conviction and sentence vide Judgment dated 02.07.2012. The petitioner was found guilty of the said offence and sentenced to undergo one year Simple Imprisonment and also levied with a fine of Rs.5,000/-. The default sentence was also imposed. Questioning the same, the revision petitioner filed C.A.No.31 of 2012 before the Fast Track Mahila Court, Sivagangai. The first appellate Court dismissed the appeal vide Judgment dated 09.11.2016 and confirmed the Judgment of the trial Magistrate. 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 and wanted this Court to set aside the impugned Judgments.

5. Per contra, the learned counsel appearing for the complainant submitted that the impugned Judgments are well founded and no interference is called for.



6. I carefully considered the rival contentions and went through the evidence on record.

7. The case of the complainant is that the accused borrowed a sum of Rs.1,26,000/- from the complainant and towards repayment of the said amount, issued complaint cheque Ex.P.1. The cheque was presented for collection and was returned unpaid for the reason of "insufficient funds" in the account maintained by the accused. The complainant issued Ex.P.3 notice. Though it was received by the accused, no reply was sent. The complainant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.5. The accused was examined as D.W.1. Though the accused was examined as D.W.1, he did not place any material to rebut the presumption under Section 139 of the Negotiable Instruments Act.

8. I am of the view that since the Courts below have concurrently and correctly fastened the guilt of the accused, no interference is called for. Therefore, the conviction imposed on the revision petitioner is confirmed. However, taking note of the facts and circumstances of this case, some modifications in the matter of sentence are called for. The accused had already deposited a sum of Rs.63,000/- at the time of obtaining the order of suspension of sentence. It is open to the complainant to withdraw the said amount without notice to the revision petitioner.

9. The revision petitioner is directed to deposit the balance amount of Rs.63,000/- (Rupees Sixty Three Thousand only) within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the complainant shall withdraw the said amount without notice to the revision petitioner. If the revision petitioner deposits the balance amount of Rs.63,000/- within the time stipulated above, the sentence imposed on the revision petitioner by the Court below will not be implemented. If the revision petitioner fails to deposit the same, the sentence imposed on the revision petitioner by the Court below will stand automatically restored.

10. With this modification, this criminal revision case stands partly allowed.

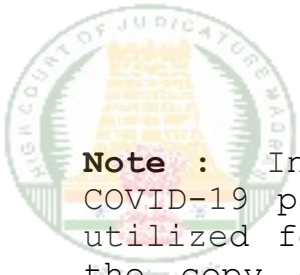
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Fast Track Mahila Judge,
Sivagangai.
2. The Principal District Munsif cum
Judicial Magistrate, Karaikudi.
3. The Chief Judicial Magistrate, Sivagangai.

Copy To:- The Section Officer, (Criminal Records)
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

Crl. R.C. (MD) No. 844 of 2016
04.12.2020

ARK (CO)
AP (22/12/2020) 3P 6C