

**BAIL**

The Revision Petition/Accused Raja, S/o. Mohan was released on bail in CRL.MP(MD).NO.12329 of 2016 in CRL.RC.(MD).No.850 of 2016 dated 16.12.2020 by this Hon'ble Court.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANCrl. R.C.(MD)No.850 of 2016

Raja .. Petitioner/Appellant/
Accused

Vs.

Adaikalam .. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision filed under Sections 397 & 401 of Cr.P.C., to set aside the Judgment made in C.A. No.29 of 2013 by the Fast Track Mahila Court, Sivagangai dated 03.11.2016 confirming the Judgment of conviction and sentence made in C.C.No.13 of 2013 by the Fast Track Court(Judicial Magistrate), Karaikudi, dated 05.06.2013.

For Petitioner : Mr.S.T.Sasidharan Tamilkani,
Legal Aid Counsel.

For Respondent : Mr.Ajmeer Khaja

ORDER

The revision petitioner was prosecuted for the offence under Section 138 of the Negotiable Instruments Act in C.C.No.13 of 2013 on the file of the Judicial Magistrate, Karaikudi.

2. The case ended in conviction and sentence. The petitioner filed C.A.No.29 of 2013 before the Mahila Fast Track Court, Sivagangai. Vide Judgment dated 03.11.2016, the appellate Court confirmed the conviction as well as the sentence. Challenging the same, this criminal revision case came to be filed.

3. Since the learned counsel who appearing for the revision petitioner withdrew his appearance, this Court directed the Registry to appoint a Legal Aid Counsel to defend the case of the petitioner.

4. The learned Legal Aid counsel representing for the petitioner reiterated all the contentions set out in the memorandum of grounds and wanted this Court to set aside the impugned Judgments and allow the revision case and acquit the petitioner.

5. Per contra, the learned counsel appearing for the complainant submitted that no case has been made out for interfering with the well considered Judgments passed by the Courts below.

<https://hcservices.ecourts.gov.in/hcservices/>

6. I carefully considered all the rival contentions and went



through the evidence on record.

7. It is the case of the complainant that the accused was known to him and that on 11.03.2008, they had executed a sale agreement. The complainant had paid a sum of Rs.5,75,000/- as full consideration. However, the land actually belonged to one Venkatachalam. The accused/revision petitioner acted as a mediator. It is not in dispute that the accused received the sale consideration of Rs.5,75,000/- from the complainant. Since the sale transaction could not be concluded as per the agreement, the complaint cheque Ex.P.5 came to be issued by the accused. The said cheque was presented for collection on 02.07.2010. It was returned for the reason of insufficiency of funds in the account maintained by the accused. Thereupon, the complainant issued Ex.P.7 legal notice. The said notice was returned unclaimed. Since the accused did not pay the cheque amount, the private complaint came to be filed. The complainant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.8. The accused examined himself as D.W.1. The learned trial Judge after a detailed consideration of the evidence on record, convicted the accused and sentenced him to undergo one year Simple Imprisonment. The accused was also directed to pay the cheque amount of Rs.5,75,000/-. In default, he was sentenced to undergo three months Simple Imprisonment. The same was confirmed in the appeal also.

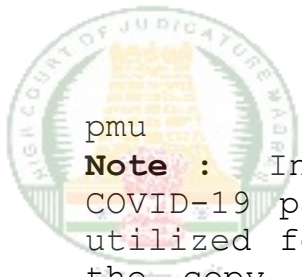
8. The learned Legal Aid counsel appearing for the petitioner would state that the account stood in the name of Rajasekar. But then, the complaint had been filed only against Raja. This appears to be the only defence taken by the accused. As rightly pointed out by the complainant, the signature found in the cheque is not in dispute. It has also been brought out in the evidence. The statutory notice was correctly addressed to the revision petitioner only. The revision petitioner was known as Raja @ Rajasekar. Merely because the accused was described by alias name that will not go to the root of the matter. This revision petitioner had issued the complaint cheque. Therefore, on this flimsy ground, I do not propose to interfere with the finding of guilt rendered by the Courts below. Passing of consideration has been convincingly established. The Courts below rightly invoked the presumption under Section 139 of the Negotiable Instruments Act against the accused. The accused could not rebut the same. Therefore, the impugned Judgments do not warrant any interference. I do not find any merit in this revision.

9. This criminal revision case is dismissed.

Sd/-

Assistant Registrar (CS-II)

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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 Judge
The Fast Track Mahila Judge,
Sivagangai.
2. The Fast Track Judge(Judicial Magistrate),
Karaikudi.
- 3.The Chief Judicial Magistrate, Sivagangai.

Copy to

The Section Officer, (2Copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.S.T.Sasidharan Tamilkani,Advocate,SR.No.25901 dated
17/12/2020

+1CC to Mr.Ajmeer Khaja,Advocate,SR.No.26380 dated 18/12/2020

Crl. R.C. (MD) No.850 of 2016
16.12.2020

SVN(CO)
KB(05.02.2021) 3P 8C