



Bail Slip

P.Dhanapal, S/o.Palaniappa Nadar, aged about 51 years/2016 was released on bail vide Court order dt.19.01.2017 made in Crl.MP(MD) No.12729/16 in Crl. R.C. (MD)No.872 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl. R.C. (MD)No.872 of 2016

P.Dhanapal

.. Petitioner

Vs.

1. K.Thirupathi

2. The Public Prosecutor,
Dinigul District,
Dindigul.

.. Respondents

Prayer : This Criminal Revision filed under Sections 397 & 401 of Cr.P.C., to set aside the Judgment dated 26.02.2016 in C.A.No.9 of 2015 on the file of the Principal Sessions Judge, Dindigul, confirming the order of conviction and sentence against the revision petitioner/accused dated 09.02.2015 passed in S.T.C.No.114 of 2013 on the file of the Judicial Magistrate No.1, Dindigul and call for records and acquit the petitioner from all the charges against him.

For Petitioner : Mr.S.Lakshmanan

For Respondent : Mr.A.Robinson,
Government Advocate(Crl.Side)
for R2.
Mr.J.Lawrance for R1

ORDER

Heard the learned counsel on either side.

2. The revision petitioner was prosecuted for the offence under Section 138 of the Negotiable Instruments Act in S.T.C. No.114 of 2013 on the file of the Judicial Magistrate No.I, Dindigul.

3. The case ended in conviction and sentence. Questioning the same, the revision petitioner filed C.A.No.9 of 2015 before the Principal Sessions Judge, Dindigul. The appellate Court dismissed the appeal and confirmed the Judgment passed by the trial Court. Challenging the same, this criminal revision case came to be filed.



4. The case of the complainant is that he gave a sum of Rs.4,00,000/- as loan to the accused and towards discharge of the said liability, Ex.P.1 cheque came to be issued. The cheque was presented for collection and it was dishonoured. Therefore, the complainant issued Ex.P.4 statutory notice to the accused. Though the accused sent a reply, he did not comply with the demand set out in the legal notice. Therefore, the private complaint came to be filed.

5. The complainant examined himself as P.W.1 and Ex.P.1 to Ex.P.6 were marked through him. The accused examined himself as D.W.1. On the side of the accused, no documents were marked.

6. The learned trial Judge came to the conclusion that the signature of the complainant found in the documents is not in dispute and Section 139 of the Negotiable Instruments Act was attracted to raise presumption against the accused. It has been concurrently held that the presumption was not rebutted. Exercising my revisional jurisdiction, I am not in a position to hold that the findings of the Courts below suffer from any perversity or material irregularity.

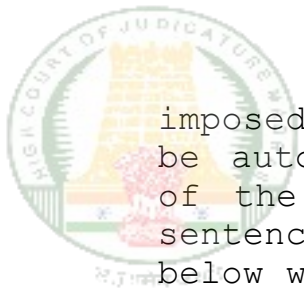
7. The petitioner's counsel states that he does not challenge the conviction imposed on the petitioner. He wants some modification in the matter of sentence. The petitioner wants time to pay the balance cheque amount. A sum of Rs.1,60,000/- was already deposited and the balance amount remains to be paid is Rs.2,40,000/- The petitioner seeks three months time to pay the said amount.

8. Considering the overall facts and circumstances, even while confirming the conviction imposed on the petitioner, I am of the view that some modification in the matter of sentence is warranted. Therefore, the sentence imposed on the petitioner is modified as follows:-

i) The complainant is permitted to withdraw the amount of Rs.1,60,000/- as already deposited by the revision petitioner.

ii) The revision petitioner is directed to deposit the balance amount of Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand only) to the credit of S.T.C.No.114 of 2013 on the file of the Judicial Magistrate No.I, Dindigul, within a period of three months from the date of receipt of a copy of this order. On such deposit, the complainant can withdraw the amount without notice to the petitioner.

iii) If the petitioner fails to deposit the said amount within the time stipulated above, the sentence



imposed on the revision petitioner by the Court below will be automatically restored. If the petitioner makes deposit of the said amount within the time stipulated above, the sentence imposed on the revision petitioner by the Court below will not be implemented.

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9. With this modification, this criminal revision case is 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 Principal Sessions Judge,
Dindigul.
2. The Judicial Magistrate No.1,
Dindigul.

Copy to

1. The Section Officer-2 copies
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.
2. The Public Prosecutor,
Dinigul District, Dindigul.

+1 CC to Mr.J.LAWRANCE, Advocate (SR-24485[F] dated 08/12/2020)
+1 CC to Mr.S.LAKSHMANAN, Advocate (SR-24784[F] dated
10/12/2020)

Crl. R.C.(MD)No.872 of 2016
07.12.2020

MJ(CO)

KM (22.12.2020) 3P 8C

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