



BAIL SLIP

K.A.Dandayuthapani, S/o.K.A.Angamuthu, (Sole Accused), was released on Bail vide Court order dated 25/05/2017, made in Crl.MP (MD)No.4258/2017 in Crl.R.C(MD).No.414 of 2017.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C(MD).No.414 of 2017

K.A.Dandayuthapani ... Petitioner/Sole Accused

Vs

K.Balasubramanian ... Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 Code of Criminal Procedure, to call for the records and set aside the judgment dated 25.04.2017 made in Crl.A.No.40 of 2017 on the file of the Additional Sessions Court, Karur confirming the judgment dated 24.02.2017 made in C.C.No.347 of 2014 on the file of the Judicial Magistrate(FTC), Karur and allow the criminal revision.

For Petitioner : Mr.AN.Ramanathan

For Respondent : Mr.B.Saravanan

ORDER

The petitioner was prosecuted for the offence under Section 138 of the Negotiable Instrument Act in C.C.No.347 of 2014 on the file of the Judicial Magistrate/Fast Track Court at Magistrial Level, Karur.

2.The case of the complainant is that, the accused borrowed a sum of Rs.2,00,000/- from the complainant on 15.07.2013 and towards discharge of the said liability, the petitioner issued Ex.P.2-Complaint Cheque for the said sum favouring the complainant. The complainant presented the same for collection on 25.02.2014. It was returned unpaid for the reason of 'insufficient fund' in the account maintained by the accused. Thereafter, it was presented for second time on 15.04.2014 and it was returned for the very same reason. The complainant issued Ex.P.5, dated 26.04.2014 calling upon the accused to pay the cheque amount. Though the notice was received, the accused did not give any reply notice nor did he comply with the



demand set out in the notice. In these circumstances, the private complaint was filed. cognizance of the offence was taken and the accused denied the charge and claimed to be tried.

3.The complainant to establish his case examined himself as P.W.1 and marked Ex.P.1 to Ex.P.7. The accused examined himself as D.W.1 and his brother K.A.Saravanan as D.W.2. and Ex.D.1 to Ex.D.5 were also marked. The learned trial Magistrate by judgment dated 24.02.2017 found the accused guilty of the offence and sentenced him four months simple imprisonment and also directed him to pay a fine of Rs.2,000/- (Rupees Two Thousand only), default sentence was also imposed. The same was confirmed vide judgment dated 25.04.2017 in Crl.A.No.40 of 2017 on the file of the Additional Sessions Judge, Karur. The same is under question in this revision case.

4.The learned counsel appearing for the revision petitioner submitted that having regard to the evidence on record, he would not be in a position to challenge the finding of guilt. However, he prayed for leniency in the matter of sentence. The said request is strongly opposed by the learned counsel for the complainant, who wants this Court to affirm the judgment as such.

5.I carefully considered the rival contentions.

6.We are now in pandemic times. It appears that the petitioner is having serious financial difficulties. Taking note of the mitigating circumstances pleaded by the learned counsel for the revision petitioner, even while confirming the conviction the sentence is modified as follows:

7.The substantiate sentence of imprisonment imposed on the petitioner is set aside and the petitioner is directed to deposit the cheque amount of Rs.2,00,000/- to the credit of C.C.No.347 of 2014 on the file of the Judicial Magistrate(FTC), Karur within a period of five months from the date of receipt of a copy of this order. On such deposit, the same may be withdrawn by the complainant without notice to the revision petitioner. If the petitioner fails to make the said deposit, the sentence imposed by the Courts below will be automatically restored and enforced.

8.With the above modification in the matter of sentence, the Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)



To

- 1.The Additional Sessions Judge, Karur.
- 2.The Judicial Magistrate(FTC), Karur.
- 3.Do-Through The Chief Judicial Magistrate,
Karur District.

Copy To:-

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

+ 1 CC TO Mr.B.SARAVANAN, ADVOCATE IN SR No. 25587

RNK

TE : 07/01/2021 : 3P/7C

Cr1.R.C(MD).No.414 of 2017
14.12.2020