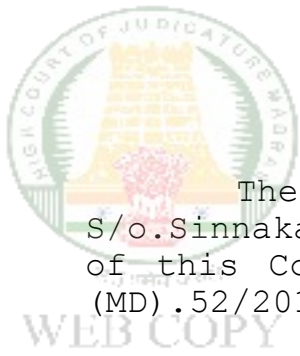




Bail Slip

The Appellant/Sole accused namely S.Manimuthu Samuel, Male, S/o.Sinnakani, was directed to be released on bail as per the order of this Court, dated 25.01.2017 in Crl.MP(MD).581/2017 in Crl.RC.(MD).52/2017 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.52 of 2017 and

CRL.M.P.(MD)No.580 of 2017

S.Manimuthu Samuel

.. Revision Petitioner/
Appellant/Accused

Vs.

M.Subbiah

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 r/w. 401 of Cr.P.C., to call for records pertaining to the Judgment in C.A.No.46 of 2015 on the file of the III Additional District and Sessions Judge, Tirunelveli dated 17.10.2016 confirming the conviction and sentence of six months and direction to pay the cheque amount of Rs.1,50,000/- as compensation in default to undergo one month Simple Imprisonment by the Judgment dated 19.05.2015 in C.C.No.238 of 2006 on the file of the Principal District Munsif cum Judicial Magistrate, Nanguneri and set aside the same and acquit the accused.

For Petitioner : Mr.T.A.Ebenezer
For Respondent : Mr.V.Angusamy

ORDER

Heard the learned counsel on either side.

2. The respondent filed C.C.No.238 of 2006 on the file of the Judicial Magistrate, Nanguneri, against the revision petitioner for the offence under Section 138 of the Negotiable Instruments Act.

3. The case ended in conviction and sentence vide Judgment dated 19.05.2015. Questioning the same, the revision petitioner filed C.A.No.46 of 2015 before the III Additional District and



Sessions Judge, Tirunelveli. The first appellate Court by Judgment dated 17.10.2016 confirmed the Judgment of the trial Magistrate. Challenging the same, this criminal revision came to be filed.

4. It is seen that the case of the complainant is that the accused borrowed a sum of Rs.1,50,000/- on 10.03.2006 and issued complaint cheque Ex.P.1 for a sum of Rs.1,50,000/- and the same was presented for collection on 12.06.2006. It was returned unpaid and dishonoured for the reason "insufficient Funds" in the account maintained by the accused. The complainant issued Ex.P.3 statutory notice dated 20.06.2006 and the same was returned "unclaimed". The complainant examined himself as P.W.1 and also marked Ex.P.1 to Ex.P.5. The accused was also examined as D.W.1. The Court below after a detailed consideration of the evidence on record, found the accused guilty of the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months Simple Imprisonment and also directed him to pay the cheque amount as compensation. The default sentence was also imposed.

5. The signature in the complaint cheque is not in dispute. The complainant had adduced *prima facie* evidence to show in his favour. The presumption under Section 139 of the Negotiable Instruments Act could not be rebutted by the accused. Therefore, I am of the view that the concurrent findings of the Courts below do not warrant any interference. The contention put forth by the petitioner do not persuade me to hold that the Judgments of the Courts below are vitiated by any perversity or material irregularity.

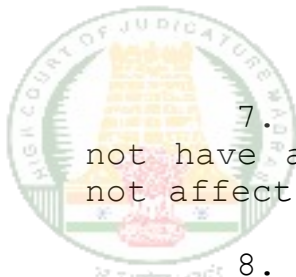
6. The conviction imposed against the petitioner is confirmed. However, taking note of the age of the revision petitioner, I am of the view that the sentence imposed on the revision petitioner can be modified. The sentence imposed on the revision petitioner is modified as follows:-

i) The revision petitioner is directed to deposit the cheque amount of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) to the credit of C.C.No.238 of 2006 on the file of the Judicial Magistrate, Nanguneri, 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.

iii) If the accused fails to deposit the cheque amount within the time stipulated above, the sentence imposed on the revision petitioner by the Court below will be automatically restored. If the petitioner deposits the cheque amount within the time stipulated above, the sentence imposed on the petitioner by the

<https://hcservices.ecourts.gov.in/hcservices/> will not be implemented.



7. It is made clear that the outcome of this revision will not have any bearing on the petitioner. In other words, this will not affect the rights of the petitioner in any manner.

8. With this observation, this criminal revision case stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// 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 III Additional District and Sessions Judge,
Tirunelveli.
- 2.The Principal District Munsif cum
Judicial Magistrate, Nanguneri.
- 3.The Judicial Magistrate, Nanguneri,
Tirunelveli District.
- 4.Through' The Chief Judicial Magistrate,
Tirunelveli District.
- 5.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.(2 Copies)

+1 CC to M/s.V.ANGUSAMY, Advocate (SR-24182[F] dated 07/12/2020)

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-24235[F] dated 07/12/2020)

Crl. R.C.(MD)No.52 of 2017

04.12.2020

NR (22/12/2020) 3P : 9C

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