



BAIL SLIP

The Petitioner/Appellant/Sole Accused namely S.Rajendran, S/o. Sabapathi was released on bail by this Hon'ble Court Crl MP (MD)7498/2017 in Crl RC(MD) No.661 of 2017 dated 21.08.2017.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C(MD)No.661 of 2017

S.Rajendran

... Petitioner/Appellant/Sole Accused

Vs

A.Selvaraj

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order passed in C.A.No.98 of 2016, dated 18.01.2017 on the file of the learned Mahalir Fast Track Court, Karur, by modifying the sentence passed by the learned Judicial Magistrate / Fast Track Court at Magisterial Level, Karur in C.C.No.572 of 2014, dated 03.12.2016 and acquit the petitioner.

For Petitioner

: M/s.M.D.Devisaravanapriya
Legal Aid Counsel

ORDER

This revision case is directed against the Judgment dated 18.01.2017 made in C.A.No.98 of 2016 passed by the Mahalir Fast Track Court, Karur, confirming the conviction, but modifying the sentence imposed by the trial Magistrate in C.C.No.572 of 2014 on the file of the Judicial Magistrate, Karur.

2.The counsel who filed the revision case did not appear, when the case was taken up for hearing. Therefore, this Court directed the Registry to appoint a Legal Aid Counsel.

3.The learned Legal Aid Counsel appeared today and reiterated all the contentions set out in the memorandum of grounds. She states that the complainant in this case is yet to be served and that, the case can be taken up for hearing after the complainant enters appearance. She also pointed out that the accused had given a cheque to one Murugesan as security and the same was misused. If this Court is to set aside the impugned Judgments, the question of hearing the complainant would arise. I am only exercising my revisional jurisdiction. If after a perusal of the record, I am of the view that no alteration is required, then, I can dispose of the matter even without hearing the complainant herein.



4.The case of the complainant is that the accused borrowed a sum of Rs.2,00,000/- on 06.07.2014 and towards discharge of the said liability, he issued Ex.P1-Cheque, dated 22.07.2014. The cheque was presented for collection and it was returned unpaid for the reason of 'insufficiency of funds' in the account maintained by the accused. Ex.P3 notice, dated 04.08.2014 was issued by the complainant. The said notice was served on the accused on 05.08.2014. The accused did not even bother to respond. Thereafter, C.C.No.572 of 2014 was filed. The complainant examined himself as P.W.1 and marked Ex.P1 to Ex.P4. The accused did not adduce any evidence. It is seen that the signature found in Ex.P1 cheque is not in dispute. The Courts below rightly invoked the presumption under Section 139 of Negotiable Instruments Act against the accused. The same has not at all been rebutted. The concurrent findings of the Courts below have not been shown to be suffering from any material irregularity. Therefore, I confirm the conviction imposed on the petitioner.

5.However, taking note of the facts pleaded by the learned Legal Aid Counsel, sentence is modified as follows:-

(I)The petitioner is directed to deposit the cheque amount of Rs.2,00,000/- to the credit of C.C.No.572 of 2014 on the file of the Judicial Magistrate/Fast Track Court, Magisterial Level, Karur, within a period of eight weeks from the date of receipt of a copy of this order.

(II)It is open to the complainant to withdraw the cheque amount without notice to the petitioner.

(III)If the petitioner fails to deposit the said cheque amount, the sentence imposed on the petitioner by the Courts below will stand automatically restored. If he deposits the said amount, it would not be enforced.

6.With this modification in the matter of sentence, this Criminal Revision Petition is partly allowed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for

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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 Judicial Magistrate / Fast Track Court,
Magisterial Level,
Karur.

2.The Judge, Mahalir Fast Track Court,
Karur.

3. The Chief Judicial Magistrate, Karur.

+1cc to M/s.M.D.Devisaravanapriya,Advocate Sr.No.26173

Crl.R.C (MD) No.661 of 2017
18.12.2020

VB (08.01.2021) 3P 5C