



BAIL SLIP

The Petitioner/Accused namely K.A.Raghavan Naidu, S/o.K.A.Alwarsamy, was directed to be released on bail by order of this court dated 17.03.2017 made in Crl.Rc.No.437/2017 and Crl.M.P.Nos.3975 & 4138/2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.437 OF 2017

K.A.Raghavan Naidu ... Petitioner/Accused

Vs.

1.S.Sundararajan (Deceased) ... Respondent/Complainant

2.S.Chandralekha

3.M.Vasumathi

4.S.Manivannan

...

Respondents

[Amended as per order in Crl.MP.No.9381 of 2021 in Crl.RC.No.437 of 2017 dated 21.09.2021]

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C. seeking to set aside the order of the Appellate Court in C.A.No.102 of 2014 dated 02.02.2017 on the file of the Principal District and Sessions Judge, Vellore confirming the order of the trial Court in C.C.No.46 of 2012 dated 25.11.2014 on the file of the Judicial Magistrate F.T.C. Vellore by allowing this revision.

For Petitioner : Mr.E.Kannadasan

For Respondents: R1 - Died
M/s.Elizabeth Ravi [R2 to R4]



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ORDER

This Criminal Revision Case has been preferred challenging the judgement of the learned Principal District and Sessions Judge, Vellore dated 02.02.2017 passed in C.A.No.102 of 2014.

2. This case has arisen out of a private complaint preferred by the deceased respondent/complainant on the allegation that the cheque issued by the petitioner/accused for a sum of Rs.40,00,000/- on 20.07.2011 was dishonoured for insufficient funds.

3. During the course of the trial, on the side of the complainant, three witnesses were examined as P.W.1 to P.W.3 and Exs.P1 to P10 were marked. On the side of the accused, one witness was examined as D.W.1 and Exs.D1 to D4 were marked.

4. After the trial, the learned trial Court has found the accused guilty for the offence under Section 138 r/w 142 of Negotiable Instruments Act and convicted and sentenced him to undergo two years Simple Imprisonment and imposed a fine of Rs.5,000/- in default to undergo three months Simple Imprisonment and a compensation of Rs.35,00,000/- has also been ordered to be paid to the defacto complainant. The appeal preferred by the petitioner/accused in C.A.No.102 of 2014 was also dismissed by confirming the judgement of the trial Court. Aggrieved over that, the petitioner/accused has preferred this present revision.

5. The learned counsel for the petitioner/accused submitted that he has made substantial payment of the cheque amount and that was acknowledged by the respondent also.

6. Point for consideration:-

Whether the conviction and sentence of the accused for the offence under Section 138 of Negotiable Instruments Act by the learned Principal District and Sessions Judge based on the materials available on record is fair and proper?

7. It is seen from the calculation filed by the learned counsel for the respondent on 01.07.2021 that after deducting the payments made by the petitioner/accused, there is a balance of Rs.11,00,000/-. However, the petitioner/accused has not come forward to settle the remaining Rs.11,00,000/- but he has sought only the indulgence of the Court to reduce the punishment.



8. Taking into consideration of all the payments made by the petitioner/accused, I feel that the sentence imposed alone may be reduced and with regard to the rest of the aspects of the judgement of the Courts below, I find no reason for interference.

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In the result, this Criminal Revision Case is partly allowed and the judgement of the learned Principal District and Sessions Judge, Vellore dated 02.02.2017 passed in C.A.No.102 of 2014 is modified to the effect that the accused is found guilty for the offence under Section 138 of N.I. Act and he is convicted and sentenced to undergo six months simple imprisonment. The fine amount of Rs.5,000/- and the compensation of Rs.35,00,000/- if already paid, may be retained. The Magistrate is directed to issue non-bailable warrant to secure the accused for sending him to prison to undergo the punishment.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Vellore.
2. The Judicial Magistrate,
Fast Track Court,
Vellore.
3. Do-thro The Chief Judicial Magistrate,
Vellore.

Copy To

The Section Officer,
Criminal Section, High Court,
Madras.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.64100

+1cc to Mr.P.Raja, Advocate, S.R.No.64132

Cr1.R.C.No.437 of 2017

GPL (CO)
PM/08/02/2022