



BAIL SLIP

The Appellant/Accused Namely, P.Shanmugam S/o.Paramasivam was directed to be released on bail by the order of this Court dated 05.07.2019 and made in Crl.MP.No.6744/2019 and 6745/2019 in Crl.R.C.No.467 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

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THE HON'BLE MR. JUSTICE D. BHARATHA CHAKRAVARTHY

CRL.R.C.No. 467 of 2019

P. Shanmugam

..Petitioner/Accused

Vs.

R. Ravichandran

..Respondent/Complainant

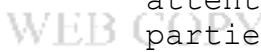
Prayer: Criminal Revision Case as against the judgment of the I Additional District and Sessions Court, Coimbatore in Criminal Appeal No. 21 of 2018 dated 03.04.2019 confirming the order dated 21.12.2017 of the learned Judicial Magistrate, Fast Track Court at Magisterial Level II, Coimbatore in C.C. No. 15 of 2013.

For Petitioner :: Mr.P. Gurusamy

For Respondent :: Mr.T. Balaji

O R D E R

This revision is filed aggrieved by the judgment of the learned Judicial Magistrate, Fast Track Court at Magisterial Level II, Coimbatore dated 21.12.2017 in C.C. No. 15 of 2013, in and by which the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to pay the cheque amount of Rs.2 lakhs as compensation to the complainant, within one month and in default to undergo six months simple imprisonment which was confirmed in Criminal Appeal No. 21 of 2018 by judgment dated 03.04.2019 by the learned I Additional District and Sessions Judge, Coimbatore.



3. The learned counsel for the petitioner, drawing the attention of this Court to the earlier complaint between the parties and the undertaking given in the Police Station, would submit that there was no legally enforceable liability at all and it is a dispute between the contractor and the principal, who had given his site to put up construction and the dispute whether the contractor was at fault or the site owner was at fault is pending before the consumer forum and therefore, even without any liability, the cheque was obtained. Further he would submit that the cheque was given under duress and coercion before the Police Station, which fact is borne out in the cross-examination of the complainant himself. Therefore, the learned counsel for the petitioner would submit that in the absence of any legal liability, the mere fact that the cheque was dishonoured cannot be taken to construe that the petitioner has committed an offence under Section 138 of the Negotiable Instruments Act and prayed that this Court should reverse the concurrent finding of both the Courts below and acquit the petitioner.

5. I have considered the rival submissions on behalf of the learned counsel on either side and perused the material records of the case.



6. The submission made on behalf of the petitioner is that there is no legally enforceable liability and that the cheque was given under duress. However, as rightly submitted by the learned counsel for the respondent, if the cheque had been obtained under duress in the Police Station, after coming out of the Police Station or thereafter, no complaint, whatsoever, was given to the higher officials by the petitioner. This apart, in the reply notice issued by him, there is no whisper that the cheque was obtained under duress. On top of it, he had even offered to pay the cheque amount if the cheque leaf was returned to him. Under these circumstances, I am unable to accept the contention of the learned counsel for the petitioner so as to exercise the jurisdiction in a revision case and therefore, no exception can be taken in respect of the finding rendered by the Trial Court as well as the First Appellate Court and the conviction of the petitioner under Section 138 of the Negotiable Instruments Act is hereby confirmed.

7. Coming to the question of sentence, the Trial Court has imposed the sentence of six months simple imprisonment, which has been confirmed by the First Appellate Court. In this case, it is pertinent to note that pursuant to the direction issued by this Court dated 07.06.2019 in the above revision, the entire cheque amount of Rs.2 lakhs has already been deposited by the petitioner to the credit of C.C. No. 15 of 2013. Therefore, taking the same into consideration and taking into account the overall facts and circumstances of the case, I am inclined to interfere with the sentence imposed by the Trial Court.

8. Accordingly, the Criminal Revision Case is partly allowed with the following directions:

(i) The conviction of the petitioner under Section 138 of the Negotiable Instruments Act in C.C. No. 15 of 2013 by the learned Judicial Magistrate, Fast Track Court at Magisterial Level II, Coimbatore and confirmed by the I Additional District and Sessions Court, Coimbatore, in Criminal Appeal No. 21 of 2018 is sustained.

(ii) The sentence imposed is modified and the petitioner shall pay a fine of Rs.2000/- (Rupees Two Thousand only) as the cheque amount has already been deposited.

(iii) The fine amount of Rs.2000/- shall be paid within a period of 10 days from the date of receipt of a copy of this order and in default, the petitioner shall undergo simple imprisonment for a period of one week.



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(iv) As stated already, the entire compensation amount of Rs.2 lakhs has been deposited to the credit of C.C. No. 15 of 2013 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level II, Coimbatore and the respondent/complainant shall be entitled to payment out of the same.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Fast Track Court at Magisterial
Level II, Coimbatore.

2.Do through the Chief Judicial Magistrate,Coimbatore.

3.The I Additional District and Sessions Court,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.

Copy to:

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

+1 cc to Mr.S.Sithirai Anandam, Advocate Sr.NO.36654

+1 cc to Mr.A.Thiyagarajan, Advocate Sr.NO. 37363

CrI.R.C. No. 467 of 2019

MG(CO)

A.SK(05/07/2022)