



BAIL SLIP

The Petitioner/Accused Balu, Male was directed to be released on Bail vide Order dated 02/07/2014 made in Crl.M.P.No.1 of 2014 in Crl.R.C.No.624 of 2014 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM:

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.624 OF 2014

Balu

... Petitioner

Versus

LIP Marketing,
Rep. by Ramesh Rai.

... Respondent

PRAYER:-

Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C., to call for the records of the case in C.A.No.40 of 2010 on the file of the learned Additional District Judge, Chengalpattu, dated 14.08.2012, confirming the conviction and sentence made in C.C.No.471 of 2008, dated 10.06.2010 on the file of the learned Judicial Magistrate, Alandur and set aside the same and acquit the appellant.

For Petitioner : Mr.S.Janarathanam

For Respondent : Mr.C.Ruban D Silva

ORDER

This Criminal Revision Case in Crl.R.C.No.624 of 2014 is filed by the petitioner/accused, aggrieved by the order of the learned Judicial Magistrate, Alandur, dated 10.06.2010 in C.C.No.471 of 2008, thereby, convicting the petitioner for an offence under Section 138 of the Negotiable Instruments Act and



imposing a sentence of six months Simple Imprisonment and a fine of Rs.5,000/- and in default of payment of fine, one month Simple Imprisonment and the judgment of the learned I Additional District Judge, Chengalpattu, dated 14.08.2012 in Crl.A.No.40 of 2010, thereby, dismissing the appeal and confirming the conviction and sentence imposed by the Trial Court.

2. This is a case on private complaint. On 08.04.2008, the respondent/complainant filed a complaint under Section 200 of Code of Criminal Procedure, complaining an offence under Section 138 of the Negotiable Instruments Act stating that for supply of the machinery, more specifically Flex Digital Machine Model Space Jet Printer for a total price of Rs.14,70,000/- and on the same day, the accused paid advance amount of Rs.8,50,000/- and for the balance sum, he issued six post dated cheques. As a matter of fact, Ex.P-1, agreement entered into at the time of delivery categorically makes clear about the total sale price and the amount received and balance of Rs.6,05,000/- payable and the handing over of six post dated cheques by the accused.

3. It is the further case of the complainant that on due date, the first cheque given by the petitioner/accused, was deposited by them for collection, which returned dishonoured. The complainant issued statutory notice calling for the accused to pay the amount due under the cheque. However, within the statutory period, the accused neither paid the amount nor issued any reply and hence the complaint.

4. The Trial Court recorded the sworn statement of the complainant and took the complaint on file in C.C.No.471 of 2008 and upon summoning of the accused, copies were furnished and the accused denied the charge and stood trial. The employee of the complainant, who has knowledge about the transaction, namely Ramesh, was examined as P.W.1 and on behalf of the complainant, Exs.P-1 to P-6 were marked. Thereafter, one Muruganantham, friend of the petitioner/accused was examined as D.W.1 and the accused examined himself as D.W.2 and Exs.D-1 to D-4 were marked on behalf of the accused. The Trial Court, thereafter, proceeded to consider the evidence on record and by a judgment, dated 10.06.2010 found that the only defence on behalf of the petitioner/accused, that he has already paid the amount and Exs.D-1 to D-4 are the receipts thereof, as unbelievable because the sum total of Exs.D-1 to D-4 exceeded the sale price of Rs.14,70,000/- and therefore, beleived the case of the complainant that the Exs.D-1, D-2 and D-4 receipts actually belong to another transaction and does not relate to the purchase of the same printer. Therefore, after rejecting the



case of the petitioner/accused, the Trial Court found that once the signature in the cheque, as having admitted and the presumption under Section 139 read with 118 of the Negotiable Instruments Act also come to the aid of the complainant, the complainant has proved the offence punishable under Section 138 of the Negotiable Instruments Act beyond any doubt and sentenced the petitioner/accused as aforesaid.

5. The petitioner/accused filed CrI.A.No.40 of 2010, aggrieved by the above said findings and conclusions of the Trial Court. By judgment, dated 14.08.2012, after independently appraising the evidence on record, the Appellate Court came to the conclusion that as claimed by the accused that if Exs.D-1 to D-4 relate to the payment of the entire consideration, then there was no need for the accused to part away with a signed cheques as security with the complainant. Further, the Appellate Court also believed the version of the complainant because of the amounts mentioned in Exs.D-1, D-2 and D-4, and the complainant's version that they belong to some other transaction has to be taken into account and when the accused has not taken any further steps to prove all the receipts Exs.D-1 to D-4 relate to only to the purchase of the subject matter machinery, the Appellate Court rejected the grounds of appeal and confirmed the conviction and sentence imposed by the Trial Court.

6. Heard Mr.S.Janarathanam, the learned Counsel appearing on behalf of the petitioner/accused and Mr.Ruban D Silva, the learned Counsel appearing on behalf of the respondent/complainant.

7. I am in agreement with the learned Counsel for the respondent/complainant that in this case, the version of the accused that he has paid the entire amount by virtue of Exs.D-1 to D-4 is totally unbelievable for the reasons that firstly, the sum in Exs.D-1 to D-4 is in excess of Rs.14,70,000/- being the sale price of the machine. Secondly, if such amounts have been paid towards the purchase of the machinery, as rightly pointed out by the learned Counsel for the respondent/complainant, there was no occasion for the respondent/accused to part with six post dated cheques. This apart, in the cross-examination of D.W.2/accused, the accused had categorically admitted that the agreement is the one for the purchase of the Flex Digital Machine Model Space jet printer. He further admitted that it is mentioned that Rs.8,50,000/- has been paid as D.D in the said agreement and the balance is mentioned as Rs.6,05,000/- in the said agreement. Therefore, in view of the categorical admissions in the cross-examination, no exception can be taken to the



considered findings of the Trial Court as well as the first Appellate Court in this revisional jurisdiction.

8. Therefore, I see no merits in the present Revision Case and accordingly, the same is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Additional District Judge,
Chengalpattu.
2. The Judicial Magistrate,
Alandur.
3. The Chief Judicial Magistrate,
Chengalpattu.

Copy To:-

The Section Officer,
Criminal Section,
High court,
Madras - 104.

CRL.R.C.NO.624 OF 2014

MT(CO)
PBS/08/02/2022