



BAIL SLIP

The petitioner/ Accused / Viz, Sawendar @ K.P.Rajendran, S/o. Ponnusamy was ordered to be released on bail as per the order of this Court dated 08/09/2017 in CrI.M.P.No.11383/2017 in CrI.RC.No.1188/2017, on the file of the Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

CORAM:

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

CrI.RC.No.1188 of 2017

Sawendar @ K.P.Rajendran

.. Petitioner

Vs.

M.Viswanathan

. . Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 Cr.P.C, to set aside order passed by the II Additional District and Sessions Court, Erode in C.A.No.3 of 2017 dated 21.07.2017 against the order of Judicial Magistrate No.III, Erode in C.C.No.220 of 2011 dated 14.11.2016 and allow this Revision Petition.

For Petitioner : No Appearance

For Respondent : No Appearance

O R D E R

Since there is no representation for the revision petitioner for the past two hearings, the matter is listed today under the caption for dismissal. Even today there is no representation for the petitioner. Though the matter is pending for the past five years, the revision petitioner has not taken any steps even to serve notice to the respondent, who is the complainant.

2.This revision petition is filed against the concurrent finding of the Courts below, holding that the revision petitioner is guilty of offence under Section 138 of Negotiable Instrument Act. Alleging that there is major contradictions in the evidence of the complainant which fails his case and the same has not been taken note by the Courts below, the present



revision petition is filed. Whereas on perusal of the record, this Court finds that the private complaint has been preferred alleging that Cheque No.640334, dated 24.01.2011 for Rs.1 lakh was handed over by the revision petitioner herein to the complainant to discharge the loan liability. When the said cheque was presented for collection, the same was bounced back with an endorsement "insufficient". Statutory notice dated 05.04.2011 has been served on the petitioner/accused on 06.04.2011. The petitioner has chosen not to reply to the statutory notice.

3.To prove the complaint, the respondent/complainant has mounted the witness box and marked seven exhibits. In defence, the accused has marked two documents, one a hand written slip of account statement and another one sale deed executed by one Loganathan. To discharge the burden as per the defence, there was transaction between the complainant and the accused. The land owned by the accused was sold to the father of the complainant under Ex.B2 through the power agent Loganathan and in the course of the said transaction, the subject cheque was issued which has been misused by the complainant.

4. The trial court on considering the evidences placed by either side parties has held that the accused and the complainant had business transaction. From the complainant, the accused has procured building materials for the construction work and in the course of the said transaction, the subject cheque was issued. Since the presumption under Section 118 A of N.I. Act and Section 139 of N.I. Act not been rebutted by the petitioner herein and two exhibits Ex.D1 and Ex.D2 are not related to the case in hand, the trial court held the accused is guilty and convicted him to undergo six months simple imprisonment and to pay a compensation of Rs.3 lakhs.

5. On appeal, the Appellate Court re-appreciating the evidence, confirmed the trial court order and dismissed the appeal.

6.The grounds raised in the revision petition is considered but found not substantial to infer the order of the Courts below as perverse or illegal. Hence, the criminal revision petition is dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



To

WEB COPY

1. The II Additional District and Sessions Court,
Erode.
2. The Judicial Magistrate No.III,
Erode.
3. The Chief Judicial Magistrate,
Erode (For Information)

CrI.RC.No.1188 of 2017

GSM(CO)
CT/01/07/2022