

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 41 OF 2005

S.R. SUNIL & CO.

..... APPELLANT

VERSUS

D. SRINIVASAVARADAN

..... RESPONDENT

O R D E R

1. A very limited prayer is made in this appeal. It arises from the order of the High Court. Admittedly a sum of Rs. 1,40,00,000/- had been borrowed by the respondent from the appellant on the 5th October, 1996. On 18th November, 1996, the respondent gave a cheque for Rs.5,38,425/- towards the interest on the aforesaid amount. This cheque was deposited in the bank on the 9th of January, 1997 which was dishonoured on account of insufficient funds. A complaint under Section 138 of the Negotiable Instruments Act was, accordingly, filed and it was noticed that the only dispute was with regard to the payment of the interest as the principal amount of Rs.1,40,00,000/- had already been paid within

time. The Trial Magistrate, accordingly, thought it fit that a sentence of imprisonment till the rising of the Court and a fine of Rs. 5,000/- would meet the ends of justice. A revision was thereafter filed by the appellant and the same has been dismissed. The present appeal has been filed praying that the sentence of imprisonment till the rising of the Court and a fine of Rs. 5,000/- was completely unrealistic and contrary to the law laid down in Suganthi Suresh Kumar v. Jagadeeshan (2002) 2 SCC 420.

2. We have heard learned counsel for the parties. In the afore-cited case, it has been highlighted that the bouncing of cheque was a serious matter and not to be dealt with lightly by the Court and a sentence commensurate with the facts and the behaviour of the accused must also be kept in mind. Undoubtedly the principal amount of Rs.1,40,00,000/- had been paid by the accused but the interest which he had promised to pay by way of the cheque could not be realised as the cheque had bounced. It is also clear that despite the fact that the complaint had been filed in the year 1996 and the matter has been pending for 15 years, he has not made any attempt to make the payment. We, therefore, feel that a deterrent sentence is called for

in the light of the aforesaid circumstances. We, accordingly, direct the accused-respondent herein to pay a compensation and fine of Rs. 5,38,425/- and in default of payment to undergo two years simple imprisonment. We give time upto the end of March, 2011 to make the payment failing which he will be taken into custody to serve out his sentence.

3. The appeal stands disposed of.

NEW DELHI
JANUARY 27, 2011.

