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CRL MP No. 11678 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL MP No. 11678 of 2026

IN

CRL RC NO. 1136 OF 2026

T.Sivasubramanian
S/o.Late Thangaiyan,
Proprietor
M/s Cauvery Construction Company,
No.20, Manthoppu Colony,
8th Avenue, Ashok Nagar,
Madras - 600 083.

..Petitioner(s)

Vs

C.Suresh
S/o.Chandra Mohan,
No.362, 7th Block,
Mogappair West,
Chennai - 600 037.

..Respondent(s)

Prayer: To Suspend the Sentence made in Criminal Appeal No.8 of 2010 on the file of the Additional District and Sessions Judge, Chengalpattu confirming the Judgment dated 16.02.2010 made in C.C.No.1497 of 2006 on the file of Judicial Magistrate, Alandur, pending disposal of the above Crl.R.C.

For Petitioner(s):

S.Kasirajan



ORDER

This Criminal Miscellaneous Petition has been filed by the Revision Petitioner, praying to suspend the sentence imposed on him in Criminal Appeal No. 8 of 2010 dated 02.02.2026 by the Additional District and Sessions Judge, Chengalpattu, confirming the judgment of conviction, sentence, and order dated 16.02.2010 made in C.C. No. 1497 of 2006 by the Judicial Magistrate, Fast Track Court, Alandur, pending disposal of the instant Criminal Revision Petition.

2.By the impugned judgment of conviction, sentence, and order of the Trial Court, which was subsequently confirmed by the Lower Appellate Court, the Revision Petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act. The petitioner was sentenced to undergo six months of simple imprisonment along with a fine of Rs.5,000/-, in default of payment of the fine, the accused shall undergo simple imprisonment for one month and directed to pay compensation matching the cheque amount of ₹3,00,000/-. It is submitted that during the trial and the subsequent appeal, the petitioner's sentence stood suspended, and the petitioner is currently not in jail.

3.Challenging the above said judgement of conviction and sentence and order, the Revision Petitioner has filed the above Criminal Revision Petition along with the instant Criminal Miscellaneous Petition, seeking suspension of



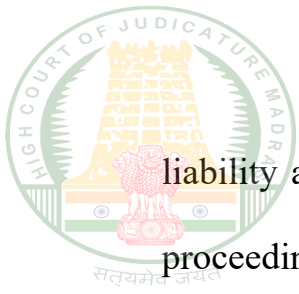
sentence and bail pending disposal of the Criminal Revision.

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4.Learned counsel for the petitioner thereafter submits that in compliance with the order passed by this court dated 04.06.2026, a sum of Rs.75,000/- has been deposited before the trial court by the petitioner on 29.06.2026 showing his bona fide. In this regard, he has produced the deposit receipt before this court, which is taken on record. He further submits that since the order of this court has been duly complied with, the petitioner's application for suspension of sentence may be favorably considered by this court.

5.This Court heard Mr.S.Kasirajan, the learned counsel for the Revision Petitioner and considered his submissions and also perused materials placed before this Court.

6.The brief facts leading to the filing of the present revision petition are that the respondent/complainant initiated proceedings against the petitioner under Section 138 of the Negotiable Instruments Act alleging the existence of a legally enforceable liability and dishonour of the cheque issued by the petitioner. The case of the complainant arises out of a transaction relating to a civil contract for a 220 KV Sub-Station Extension Project at Dodaballapur under the supervision of Bharat Heavy Electricals Limited (BHEL). According to the complainant, the cheque in question was issued towards discharge of the



liability arising out of the said transaction and, upon dishonour of the cheque, proceedings under Section 138 of the Negotiable Instruments Act were initiated.

After considering the oral and documentary evidence adduced by both parties, the learned Trial Court convicted the petitioner, and the said conviction was subsequently confirmed by the learned Appellate Court.

6. Before this Court, the learned counsel for the Revision Petitioner contended that the learned Appellate Court failed to properly appreciate the defence evidence marked as Exs.D1 to D18 and ignored the actual nature of the transaction arising out of the 220 KV Sub-Station Extension Project. It was submitted that the complainant failed to establish the existence of a legally enforceable debt and that the defence documents relating to the project accounts and financial transactions were not properly considered. The learned counsel further contended that the cheque was issued only as a security in the course of the transaction and that the statutory presumption under Section 139 of the Negotiable Instruments Act was wrongly applied by the courts below. Therefore, it was argued that the conviction confirmed by the Appellate Court warrants interference.

7.It is further argued that due to pendency of the criminal cases before this High Court, there is a blinking chance that in the near future, this Criminal Revision Case will be finally heard and decided. It is further submitted that

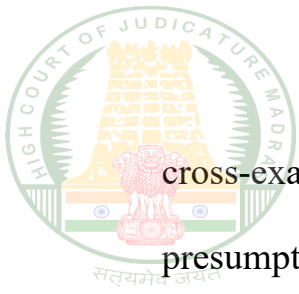


there are arguable points in this Criminal Revision Case and the Revision Petitioner has a fair chance of success in this Criminal Revision Case. Thus, the learned counsel for the Revision Petitioner has prayed for suspension of sentence and bail, till the disposal of this Criminal Revision Petition.

8.It has been assured on behalf of the Revision Petitioner that he is fully ready to cooperate with the process of law, shall faithfully make himself available before the Court whenever required, and is willing to accept any reasonable conditions that this Court may deem fit to impose. The Revision Petitioner further gives an explicit undertaking that in the event he is released on bail, he will not misuse his liberty and will cooperate in the swift disposal of the main Revision.

9.The learned Government Advocate (Criminal Side) for the Respondent has opposed the argument advanced by the learned counsel for the Revision Petitioner and submits that the judgements passed by the Courts below are as per the law, after considering the entire evidence and thus, the relief sought by the Revision Petitioner, at this stage, be refused by this Court.

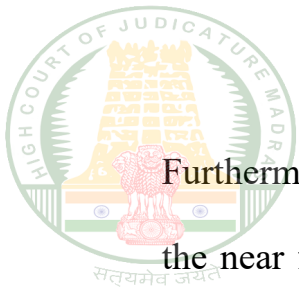
10.Considering the arguments advanced by the learned counsel for the Revision Petitioner, this Court is of the view that the lower appellate court failed to properly appreciate the material evidence brought on record through



cross-examination and the defense exhibits. While the initial statutory presumption under the Negotiable Instruments Act applies, the accused is legally entitled to discharge his burden of proof on the basis of materials already on record. The categorical finding of the lower appellate court that the project work was left incomplete by the complainant raises a substantial triable issue as to whether the cheque was backed by a legally enforceable debt.

11. Further, it is observed that when an accused is under the imminent threat of incarceration and when there are vital, arguable points raised in the Revision which prima facie favor the defense, the Courts should not shy away from granting a suspension of sentence. The personal liberty of an individual would be irreversibly compromised if the revision eventually results in an acquittal at a later point in time after he has already undergone the sentence. In this regard, the principle laid down by the Hon'ble Supreme Court of India in the case of *Rabi Prakash Vs. The State of Odisha reported in 2023 Live Law (SC) 533* is highly relevant and applicable.

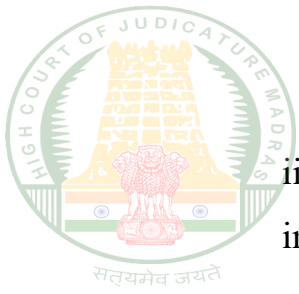
12. The Revision Petitioner has raised substantial legal and factual grounds in the Revision, particularly concerning the misapplication of Section 139 of the NI Act, the rejection of critical documentary evidence, and the complete absence of the respondent during the appellate stage, all of which require a detailed and microscopic appraisal during the final hearing.



Furthermore, the main Revision is not likely to be taken up for final disposal in the near future. In such a view of the matter, this Court is of the firm opinion that the Revision Petitioner is fully entitled to the interim relief of suspension of sentence and bail.

13. Accordingly, pending disposal of the main Criminal Revision Case, the relief of suspension of sentence and bail is granted to the Revision Petitioner on the following conditions:-

- i. The Revision Petitioner shall surrender before the Learned Judicial Magistrate, Fast Track Court, Alandur, within a period of three weeks from the date of receipt of a copy of this order. On such surrender, the Revision Petitioner shall be released on bail upon executing a personal bond for a sum of ₹15,000/- (Rupees Fifteen Thousand Only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate (FTC) Alandur, subject to furnishing a written undertaking that he will fully cooperate in the hearing of the main Revision Case.
- ii. The Revision Petitioner and his respective sureties shall mandatorily affix their latest Photographs and Left Thumb Impressions (LTI) in the bail bonds, and the court below may obtain a copy of their Aadhaar Cards or Bank Passbooks to formally establish and ensure their identity.



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iii. The realization of the fine amount or compensation, if any, imposed on the Revision Petitioner shall remain stayed and suspended during the pendency of the present Revision.

iv. The Revision Petitioner shall appear before the Learned Judicial Magistrate, Fast Track Court, Alandur, once in every month, i.e., on the 3rd day of every calendar month commencing from the month of August 2026 at 10:30 a.m., until further orders of this Court.

v. Upon formal acceptance of the bail bonds and sureties, the Trial Court shall immediately transmit legible photostat copies thereof to the Registry of this Court to be kept on the formal records of this Revision.

14. With the above directions, this Criminal Miscellaneous Petition stands ordered and allowed.

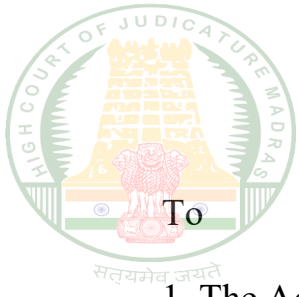
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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Additional District and Sessions Judge, Chengalpattu.
2. The Judicial Magistrate (FTC), Alandur.
3. The Public Prosecutor, Madras High Court.

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SHAMIM AHMED, J.

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