



Crl.O.P.No.373 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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S.Pandiyaraj

Partner of M/S. Yume Homes and Land,
No.77, See Breeze Apartments,
Kuppam Beach Road,
Singaravelan Nagar,
Thiruvanmiyur,
Chennai 600 041.

.... Petitioner

Vs

M/S.P.M.A. Food Products ,
Rep by its Power Agent,
A.P.T.Mahadevan,
New No.160, Old No.100,
2nd Floor, Flat No.7,
Coral Merchant Street,
Mannady,
Chennai 600 001.

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertinent to the impugned order passed by the Principal Sessions Judge, Chennai, in Crl.M.P.No. 36204 of 2024 in Crl.A.No.1059 of 2024 dated 21.12.2024 and to set aside the same.



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For Petitioners : Mr.P.Devaraj

For Respondent : Mr.L.P.Mounish

ORDER

This Criminal Original Petition has been filed challenging the order dated 21.12.2024 passed by the Principal Sessions Judge, Chennai, in Crl.M.P.No.36204 of 2024 in Crl.A.No.1059 of 2024, thereby directed the petitioner to surrender before the Trial Court and seek for suspension of sentence.

2. The petitioner is an accused in the complaint lodged by the respondent for the offences punishable under Section 138 of the Negotiable Instruments Act in C.C.No.2320 of 2018 on the file of the Metropolitan Magistrate Fast Track Court-IV Magisterial Level, George Town, Chennai. After a full-fledged trial, the Trial Court convicted the petitioner for the offences punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months of simple imprisonment and also awarded a compensation to the tune of Rs.18,23,250/- (the cheque amount) with interest at the rate of 3% per annum.



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3. On the date of Judgment itself, the petitioner filed an application in Crl.M.P.No.14483 of 2024 seeking suspension of sentence and the same was ordered on 16.11.2024. Therefore, the petitioner ought to have filed an appeal and sought suspension of sentence on or before 16.12.2024. Though the petitioner filed an appeal against the order of conviction before the Appellate Court on 11.12.2024, it was numbered and his application for suspension of sentence was considered only on 21.12.2024. As a result, after a lapse of 30 days, the Appellate Court did not have jurisdiction to entertain the application for suspension of sentence. Consequently, the petitioner was directed to surrender before the Trial Court and file a petition seeking suspension of sentence.

4. Admittedly, the petitioner filed an appeal within a period of 30 days from the date of suspension of sentence, i.e., 11.12.2024. Unfortunately, the appeal was numbered and listed before the Appellate Court only on 21.12.2024. Further, the petitioner is also ready to abide by any stringent conditions as contemplated under Section 148 of Negotiable Instruments Act.



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3. In view of the above, the order dated 21.12.2024 passed by the Principal Sessions Judge, Chennai in Crl.M.P.No.36204 of 2024 in Crl.A.No.1059 of 2024, is hereby set aside, and the sentence imposed on the petitioner is suspended subject to the following conditions :

(i) the petitioner shall deposit a sum of Rs.4,00,000/- (Rupees Four Lakhs only) within a period of 30 days from today.

(ii) the petitioner shall execute a bond for a sum of Rs.10,000/- [Rupees Ten thousand only] with two sureties each for a like sum to the satisfaction of the learned Metropolitan Magistrate Fast Track Court-IV Magisterial Level, George Town, Chennai.

(iii) the petitioner shall appear before the Appellate Court on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To

1. The Principal Sessions Judge,
Chennai

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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