



Crl.M.P.Nos.1286 & 1645 of 2025
in Crl.R.C.No.165 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.1286 & 1645 of 2025
in
Crl.R.C.No.165 of 2025

K.Gopalsamy ... Petitioner/Accused in both cases
Vs.

Dhanabackiyam ... Respondent in both cases

PRAYER in Crl.M.P.No.1286 of 2025: Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS, to suspend the sentence dated 29.09.2021 imposed in C.C.No.121 of 2015 by learned Judicial Magistrate No.1, Udumalpet and confirmed in Crl.A.No.95 of 2021 by IV Additional District Court, Udumalpet dated 18.12.2024.

PRAYER in Crl.M.P.No.1645 of 2025: Criminal Miscellaneous Petition filed under Section 430 of BNSS, to grant an order of exemption from surrendering before the trial Court consequent to the sentence imposed on 29.09.2021 in C.C.No.121 of 2015 by Judicial Magistrate No.1, Udumalpet and confirmed in Crl.A.No.95 of 2021 by IV Additional District Court, Udumalpet dated 18.12.2024.

For petitioner : Mr.P.Muthusamy

ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner/Accused by judgment dated 29.09.2021 passed in C.C.No.121 of 2015 by the learned Judicial



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Magistrate No.1, Udumalpet and confirmed vide judgment dated 18.12.2024 in C.A.No.95 of 2021, by the learned IV Additional District Judge, Udumalpet, and also to exempt him from surrendering before the trial Court, pending disposal of the Criminal Revision Case.

2. It is the case of the respondent/complainant that towards discharge of liability, the petitioner had issued a cheque for Rs.5,00,000/- to the respondent and when the said cheque was presented for collection, the same were returned for the reason 'Funds Insufficient' and inspite of the statutory notice, the petitioner did not pay the cheque amount.

3. The petitioner/Accused was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay Rs.5,00,000/- as compensation to the complainant, in default to undergo simple imprisonment of three months.

4. Challenging the above conviction and sentence, the petitioner/Accused preferred Crl.A.No.95 of 2021. The appellate Court,



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vide judgment dated 18.12.2024 confirmed the judgment of conviction and sentence passed by the trial Court.

5. Aggrieved by the same the petitioner/accused has preferred Crl.R.C.No.165 of 2025 and pending revision has sought for suspension of sentence and exemption from surrendering before the trial Court, in these Criminal Miscellaneous Petitions.

6. The learned counsel for the petitioner/Accused submitted that the respondent has not proved the source of income for lending the sum of Rs.5,00,000/-; that there are several arguable points raised in the revision, which require consideration by this Court; that the petitioner has already deposited 20% of the cheque amount i.e. Rs.1,00,000/- as ordered by the appellate Court, while suspending the sentence imposed upon the petitioner; that to show his *bona fides*, he is willing to deposit further sum equivalent to 30% of the cheque amount; and prayed for suspension of sentence.

7. Considering the fact that there are arguable points raised in the revision; that the revision is not likely to be taken up in the near future;



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and that the petitioner/Accused has already deposited 20% of the cheque amount and is willing to deposit 30% of the cheque amount, this Court is inclined to suspend the sentence imposed on the petitioner herein/Accused and exempt him from surrendering before the trial Court.

8. Accordingly, these Criminal Miscellaneous Petitions are allowed and till the disposal of the Criminal Revision cases, the sentence imposed upon the petitioner/Accused by the trial Court, is suspended and he is exempted from surrendering before the trial Court, on the following conditions:

(i) The petitioner/Accused shall deposit 30% of the compensation amount i.e., Rs.1,50,000/- [Rupees One Lakh and Fifty Thousand Only), to the credit of C.C.No.121 of 2015 on the file of the learned Judicial Magistrate No.I, Udumalpet, within a period of four weeks from the date of receipt of a copy of this order;

(ii) On such deposit being made, the trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Cases;

(iii) Thereafter, on submission of proof for depositing 20% of the cheque amount before the trial Court, the



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sentence of imprisonment alone imposed on the petitioner/Accused shall be suspended, on his executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.I, Udumalpet;

(iv) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(v) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the revision and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court; and

(vi) On the failure of the petitioner/Accused, depositing the said amount, it is open to the trial Court to commit the petitioner/accused into custody for undergoing the sentence.

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SUNDER MOHAN, J.

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To

1.The IV Additional District Judge,
Udumalpet.

2.The Judicial Magistrate No.I,
Udumalpet.

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