



Crl.M.P.Nos.1459 & 1695 of 2025
in Crl.R.C.No.195 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.1459 & 1695 of 2025
in
Crl.R.C.No.195 of 2025

Saraswathi ... Petitioner/Accused in both cases
Vs.

Jeeva ... Respondent in both cases

PRAYER in Crl.M.P.No.1459 of 2025: Criminal Miscellaneous Petition filed under Section 438 (1) of BNSS, to suspend the sentence imposed in Crl.A.No.3 of 2024 dated 23.10.2024 on the file of the learned Principal Sessions Judge, Dharmapuri, confirming the judgment in C.C.No.96 of 2016 dated 01.12.2023 on the file of the learned Judicial Magistrate, FTC, Dharmapuri.

PRAYER in Crl.M.P.No.1695 of 2025: Criminal Miscellaneous Petition filed under Section 438 (1) of BNSS, to exempt the petitioner from surrendering before the Judicial Magistrate, Fast Track Court, Dharmapuri in C.C.No.96 of 2016, pending disposal of the criminal revision.

For petitioner : Mr.A.Suresh Selvakumar

ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner/Accused by judgment



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dated 01.12.2023 passed in C.C.No.96 of 2016 by the learned Judicial Magistrate, Fast Track Court (ML), Dharmapuri and confirmed vide judgment dated 23.10.2024 in C.A.No.3 of 2024, by the learned Principal Sessions Judge, Dharmapuri and also to exempt her 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.1,50,000/- to the respondent and when the said cheque was presented for collection, the same was returned for the reason 'Insufficient Funds' 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.1,50,000/- as compensation to the complainant, in default to undergo simple imprisonment for six months.



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4. Challenging the above conviction and sentence, the petitioner/Accused preferred Crl.A.No.3 of 2024. The appellate Court, vide judgment dated 23.10.2024 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.195 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 disputed cheque was given to one Vasanthi (Shanthi), for the loan obtained from her, while she was serving in the NGO and there was no financial transaction between the petitioner and the respondent; that the petitioner is not liable to pay the cheque amount; that the petitioner has rebutted the statutory presumption; that to show her *bona fides*, the petitioner is willing to deposit the sum equivalent to 50% of the cheque amount; and prayed for suspension of sentence.

7. Considering the fact that there are arguable points raised in the



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revision; that the revision is not likely to be taken up in the near future; and that the petitioner/Accused is willing to deposit 50% of the cheque amount, this Court is inclined to suspend the sentence imposed on the petitioner herein/Accused and also exempt her 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 she is exempted from surrendering before the trial Court, on the following conditions:

(i) The petitioner/Accused shall deposit 50% of the cheque amount i.e., Rs.75,000/- [Rupees Seventy-five Thousand Only), to the credit of C.C.No.96 of 2016 on the file of the learned Judicial Magistrate, FTC, Dharmapuri, 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;



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(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioner/Accused shall be suspended, on her 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, FTC, Dharmapuri;

(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 she is not able to appear before the trial Court on any day, she 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 her 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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Issue order copy by 04.02.2025.
Upload the order copy forthwith.



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SUNDER MOHAN, J.

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To

1. The Principal Sessions Judge,
Dharmapuri.

2. The Judicial Magistrate,
FTC, Dharmapuri.

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