



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 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.1207 & 1209 of 2025

in

Crl.R.C.No.143 of 2025

P.Vijayabharathi ... Petitioner/Accused in both cases
Vs.

Natarajan ... Respondent in both cases

PRAYER in Crl.M.P.No.1207 of 2025: Criminal Miscellaneous Petition filed under Section 438 r/w 442 of BNSS, to suspend the sentence imposed in Crl.A.No.7 of 2022 dated 27.11.2024 on the file of the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, Namakkal, confirming the judgment in C.C.No.77 of 2019 dated 28.12.2021 on the file of the learned Judicial Magistrate No.I, Namakkal.

PRAYER in Crl.M.P.No.1209 of 2025: Criminal Miscellaneous Petition filed under Section 438 r/w 442 of BNSS, to grant an order of exemption from surrendering pursuant to the sentence imposed in Crl.A.No.7 of 2022 dated 27.11.2024 on the file of the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, Namakkal, confirming the judgment in C.C.No.77 of 2019 dated 28.12.2021 on the file of the learned Judicial Magistrate No.I, Namakkal.

For petitioner : Mr.K.T.S.Sivakumar
for Mr.S.Sivakumar.

ORDER



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

WEB COPY

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner/Accused by judgment dated 28.12.2021 passed in C.C.No.77 of 2019 by the learned Judicial Magistrate No.1, Namakkal and confirmed vide judgment dated 27.11.2024 in C.A.No.7 of 2022, by the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, Namakkal, 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.5,00,000/- to the respondent and when the said cheque was presented for collection, the same was returned for the reason 'Payment stopped by the Drawer' 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 three months and to pay



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

Rs.5,00,000/- as compensation to the complainant.

WEB COPY

4. Challenging the above conviction and sentence, the petitioner/Accused preferred Crl.A.No.7 of 2022. The appellate Court, vide judgment dated 27.11.2024 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.143 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 was a partner in 'Shri Finance Firm', Namakkal; that the cheque was given as security for chit transaction 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 the petitioner has already deposited 20% of the cheque amount i.e. Rs.1,00,000/- as ordered by the



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

appellate Court, while suspending the sentence imposed upon the petitioner; that to show her *bona fides*, she is willing to deposit further sum equivalent to 30% of the cheque amount; and prayed for suspension of sentence.



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

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; 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 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 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.77 of 2019 on the file of the learned Judicial Magistrate No.I, Namakkal, 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



WEB COPY



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

at the culmination of the Criminal Revision Cases;

(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 No.I, Namakkal;

(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.

31.01.2025



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

ars

Issue order copy by 04.02.2025.
Upload the order copy forthwith.

SUNDER MOHAN, J.

ars

To

1.The Sessions Judge,
Special Court for trial of cases registered
under SC/ST (POA) Act, Namakkal.

2.The Judicial Magistrate No.I,
Namakkal.

Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025



WEB COPY



Crl.M.P.Nos.1207 & 1209 of 2025
in Crl.R.C.No.143 of 2025

31.01.2025