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Crl.O.P.No.3519 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3519 of 2025

P.Mayilsamy (Age 66 years)
Son of Ponniah Goundar,
D.No.28-C, Minnakadu Thottam,
Perumagoundanpalayam,
Kodangipalayam Post,
Palladam Taluk, Tiruppur District.

... Petitioner/Accused

Vs.

Senthil Kumar,
Son of R.Rasappan,
D.No.1/74, K.Ayyampalayam Post,
Palladam.
Tiruppur District.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 pleaded to set aside the modified order passed in Cr.M.P.No.1 of 2024 dated 10.01.2024 in connection with C.A.No.302 of 2024 on the file of the II Additional District and Sessions Judge, Tiruppur in connection with in S.T.C.No.3541 of 2016, dated 03.10.2024 on the file of the learned Judicial Magistrate, Palladam.

For Petitioner : Mr.P.Kalimuthu

For Respondent : Mr.K.M.D.Muhilan,
Government Advocate (Crl. Side)



Crl.O.P.No.3519 of 2025

ORDER

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This petition has been filed seeking a direction to set aside the modified order passed in Cr.M.P.No.1 of 2024, dated 10.01.2024, in connection with C.A.No.302 of 2024 on the file of the II Additional District and Sessions Judge, Tiruppur, in connection with S.T.C.No.3541 of 2016, dated 03.10.2024, on the file of the learned Judicial Magistrate, Palladam. The petitioner seeks to suspend the sentence imposed by the trial Court in S.T.C. No. 3541 of 2016 and imposed the condition of depositing 20% of the compensation amount within one month, from the date of receipt of the copy of this order

2. The petitioner is an accused in the complaint lodged by the respondent for an offence punishable under Section 138 of the N.I. Act in S.T.C.No.3541 of 2016. After full-fledged trial, the trial court convicted the petitioner for the offence under Section 138 of the N.I. Act and sentenced him to undergo 6 months of simple imprisonment (S.I.) and also awarded compensation in the amount of Rs.15,00,000/-, in default to undergo further one month S.I.

3. Aggrieved by the same, the petitioner filed an appeal in



Crl.O.P.No.3519 of 2025

C.A.No.302 of 2024, along with a petition for suspension of sentence in Crl.

M.P.No.1 of 2024. The Appellate Court, while suspending the sentence by order dated 10.01.2025 in Crl.M.P.No.1 of 2024, imposed the condition that the petitioner shall deposit 20% of the cheque amount within one month from the date of this order.

4. The learned Counsel for the petitioner submits that the petitioner is an aged person and could not mobilize the funds as directed by the Appellate Court. The provision under Section 148 of N.I provides power for the Appellate Court to impose such a condition while suspending the sentence.

5. This Court finds no infirmity or illegality in the order passed by the Appellate Court in Crl.M.P.No.1 of 2024, dated 10.01.2025. Hence, this Criminal Original Petition is dismissed. However, time for depositing 20% of the cheque amount is extended till 24.02.2025. If the petitioner fails to comply the condition, the Appellate Court is directed to proceed as against the petitioner in accordance with law.

12.02.2025

Index : Yes/No



Crl.O.P.No.3519 of 2025

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

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To,

1. The II Additional District and Sessions Judge, Tiruppur.
2. The Judicial Magistrate, Palladam.



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Crl.O.P.No.3519 of 2025

G.K.ILANTHIRAIYAN, J.
bsm

Crl.O.P.No.3519 of 2025

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