



CrI.O.P.No.5569 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.5569 of 2025
and CrI.M.P.No.3618 of 2025

A.Angamuthu

.... Petitioner

Vs

M/s.K.P.R.Mill Ltd.,
No.270J, Periyar Colony,
Anuppapalayam, Tiruppur – 641 652
Rep. by Marketing Officer,
A.Govindarajan.

.... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2025, to set aside the order dated 01.02.2025 in M.P.No.1/2024 in C.A.No.323 of 2024 on the file of the Principal Sessions Judge, Tiruppur.

For Petitioner : Mr.K.Gopi

ORDER

This Criminal Original Petition has been filed challenging the order passed in M.P.No.1 of 2024 in C.A.No.323 of 2024, thereby suspended the sentence imposed on the petitioner, subject to the condition that the petitioner shall deposit 20% of the compensation amount.



CrI.O.P.No.5569 of 2025

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. After a full-fledged trial, the Trial Court convicted the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and also awarded compensation to the cheque amount. Aggrieved by the same, the petitioner preferred an appeal and also filed an application to suspend the sentence. The Appellate Court suspended the sentence on condition that the petitioner shall deposit 20% of the compensation amount awarded by the Trial Court within a period of fifteen days.

4. The learned counsel for the petitioner would submit that the petitioner has a good case for succeeding in the appeal, since the petitioner marked Exs.D1 to D9 in order to prove that the amount has been paid to the respondent.



WEB COPY

5. The case of the respondent is that the petitioner purchased yarn on a credit basis. If the cost of the yarn was not paid within a period of thirty days, the petitioner was liable to pay interest at the rate of 24% per annum. As on 24.11.2016, there was due to the tune of Rs.58,83,692/-. In order to repay the same, the petitioner issued cheques. The cheques were presented for collection and the same were returned dishonoured on the ground that the petitioner had stopped the payment. Therefore, the petitioner seeks to establish exceptional circumstances as held by the Hon'ble Supreme Court of India in the case ***Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited and others***, reported in (2023) 10 Supreme Court Cases 446, which reads as follows :-

“7. Therefore, when the appellate court considers the prayer under Section 389 Cr.P.C. of an accused who has been convicted for offence under Section 138 NI Act, it is always open for the appellate court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the appellate court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded.



WEB COPY



Crl.O.P.No.5569 of 2025

8. *The submission of the learned counsel appearing for the original complainant is that neither before the Sessions court nor before the High Court, there was a plea made by the appellants that an exception may be made in dispensed with. He submits that if such a prayer was not made by the appellants, there was no reasons for the courts to consider the said plea.*

9. *We disagree with the above submission. When an accused applies under Section 389 CrI.P.C for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the court has to consider whether the case falls in exception or not.””*

6. In view of the above, there is no need to issue any notice to the respondent, as the Appellate Court, by suspending the sentence, imposed conditions on the petitioner. The petitioner has now made out a prima-facie case for not imposing the condition as contemplated under Section 148 of the Negotiable Instruments Act. Therefore, the condition imposed by the Appellate Court cannot be sustained and is liable to be set aside.



Crl.O.P.No.5569 of 2025

7. Accordingly, the condition imposed on the petitioner to deposit 20% of the compensation amount alone is hereby set aside. The other conditions imposed on the petitioner by the Appellate Court remain unaltered. The Appellate Court is directed to dispose of the appeal in C.A.No.323 of 2024, within a period of six months from the date of receipt of a copy of this order.

8. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

27.02.2025

Lpp
Index: Yes/No
Internet: Yes/No

To

The Principal Sessions Judge,
Tiruppur.



WEB COPY



CrI.O.P.No.5569 of 2025

G.K.ILANTHIRAIYAN,J.

Lpp

CrI.O.P.No.5569 of 2025

27.02.2025