



Crl.O.P.No.5560 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5560 of 2025
and Crl.M.P.No.3605 of 2025

Jothi

... Petitioner

Vs

Govindan

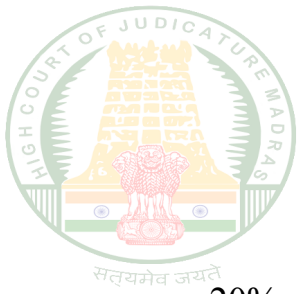
... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 01.02.2025 passed in M.P.No.1/2025 in Crl.Appeal No.15 of 2025, pending on the file of the Principal District and Sessions Judge at Tiruvallur and to modify the condition made in the order dated 01.02.2025 passed in M.P.No.1 of 2025 in Crl.A.No.15 of 2025 by the Learned Principal District and Sessions Judge at Tiruvallur.

For Petitioner : M/s R.Prabhavathy

ORDER

This petition has been filed to set aside the order dated 01.02.2025 passed in M.P.No.1 of 2025 in Crl.Appeal No.15 of 2025, pending on the file of the Principal District and Sessions Judge at Tiruvallur, thereby imposed a condition that the petitioner shall deposit



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20% of the compensation amount before the Trial Court, while suspending the sentence.

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 Negotiable Instruments Act, in STC.No.209 of 2021. After fulfilled trial, the Trial Court convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and also imposed a compensation to the tune of the cheque amount. Aggrieved by the same, the petitioner preferred an appeal along with a petition for suspension of sentence. The appellate Court considered the case of the petitioner and suspended the sentence, on condition that the petitioner shall deposit 20% of the compensation amount before the Trial Court to the credit of STC.No.209 of 2021, within a period of sixty days.



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4. As per the dictum laid down by the Hon'ble Apex Court in Crl.A.No.2741 of 2023 (SLP.No.4927 of 2023 dated 04.09.2023, in the case of ***Jamboo Bhandari Vs M.P.State Industrial Development Corporation Limited and others***, the petitioner failed to make out a case for exceptional reason for non-imposing the condition as contemplated under Section 148 of Negotiable Instruments Act.

5. The learned counsel for the petitioner would submit that part of the amount was duly received by the defacto complainant and the said acknowledgement was marked before the Trial Court as Ex.D1.

6. A perusal of the discussion in respect of Ex.D1 by the Trial Court revealed that it is in a white paper and there is no authentication or proof to show that the respondent received part of the amount from the petitioner. Therefore, the said document was rejected by the Trial Court.

7. In view of the above, this Court finds no infirmity or



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illegality in the order dated 01.02.2025 passed in M.P.No.1 of 2025 in
Crl.Appeal No.15 of 2025, pending on the file of the Principal District
and Sessions Judge at Tiruvallur.

8. Accordingly, this Criminal Original petition is dismissed.

Consequently, connected Miscellaneous petition is closed.

27.02.2025

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
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To

1. The Principal District and Sessions Judge,
at Tiruvallur.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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