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*Crl.M.P.No.7023 of 2025
in Crl.RC.No.520 of 2025*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2025

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.7023 of 2025
in
Crl.RC.No.520 of 2025

Saravanan

... Petitioner

Vs.

Muthuraman

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 438(2) of BNSS to suspend the sentence of imprisonment imposed in the judgment dated 03.02.2025 made in C.A.No.27 of 2024 on the file of the learned Principal District and Sessions Judge, Thiruvarur, confirming the conviction and sentence imposed in the judgment dated 06.12.2023 made in S.T.C.No.64 of 2022 on the file of the Judicial Magistrate cum Fast Track Court, Thiruthuraipoondi and enlarge the petitioner on bail pending disposal of the above revision petition.

For Petitioner : Mr.M.Santhanaraman



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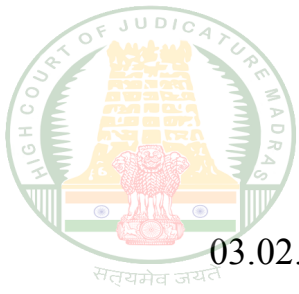


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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the sentence of imprisonment imposed in the judgment dated 03.02.2025 made in C.A.No.27 of 2024 on the file of the learned Principal District and Sessions Judge, Thiruvarur confirming the judgment dated 06.12.2023 made in S.T.C.No.64 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court, Thiruthuraipoondi and enlarge the petitioner on bail pending disposal of the above revision petition.

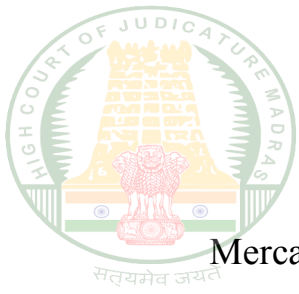
2.The petitioner was convicted by the Trial Court by judgment dated 06.12.2023 in S.T.C.No.64 of 2022 and sentenced to undergo two years simple imprisonment and to pay the cheque amount of Rs.8,50,000/- towards compensation within a period of one month, in default to undergo six months imprisonment for the offence under Section 138 of Negotiable Instruments Act. Against which, the petitioner preferred an appeal before the Sessions Court in C.A.No.27 of 2024 and the learned Principal District and Sessions Judge, Thiruvarur dismissed the appeal by judgment dated



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03.02.2025 confirming the conviction and sentence passed by the Trial Court. Against which, the present revision is filed.

3.The contention of the learned counsel for the petitioner is that the respondent lodged the complaint suppressing the vital facts. It is projected that the respondent was running a Bakery in Thiruvavur and the petitioner was running a Computer shop next to him. By acquaintance, they became very close, at that time, the petitioner is said to have received a sum of Rs.4,00,000/- on 29.05.2022 and Rs.4,50,000/- on 12.06.2022 from the respondent. Thereafter, in discharge of the said liability, the petitioner is said to have issued a cheque drawn on Lakshmi Vilas Bank for a sum of Rs.8,50,000/- on 08.07.2022. The further contention of the petitioner is that the respondent when confronting his defence Ex.D1 though denies that it is not related to the case but admits that the petitioner deposited a sum of Rs.3,00,000/- on 30.05.2017, Rs.15,000/- on 04.08.2021 and Rs.50,000/- on 30.10.2021 in the respondent's account at Tamil Nadu Mercantile Bank. Likewise, a sum of Rs.2,00,000/- was paid on 14.08.2021, Rs.2,00,000/- on 30.10.2021 and again Rs.2,00,000/- on 07.05.2022 in Tamil Nadu



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Mercantile Bank, in total, Rs.9,65,000/- has been credited to the respondent's account by the petitioner. This fact has not been considered by the Trial Court and no reason has been given as to why this amount has been deposited by the petitioner in the respondent's account.

4.The learned counsel further submitted that the petitioner obtained an information through Right to Information Act confirming that the Lakshmi Vilas Bank now merged with DBS Bank with effect from 30.11.2020, public notice also issued stating that cheque leaves issued prior to merger, in the name of Lakshmi Vilas Bank will be replaced with new cheque leaves with new IFSC Code. Admittedly, in this case Ex.P1 was deposited in the year 2022 much after the merger, hence the cheque/Ex.P1 ought to have been returned as invalid but for the reasons best known, memo has been issued as "Funds Insufficient", which fact he can prove by producing additional evidence during revision. He further produced the bank statement of the petitioner to prove that as on date there is a balance amount of Rs.4,76,245/- in his account in HDFC Bank. He would submit that the respondent to brook vengeance with great alacrity made



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arrangements and brought the Police to detain the petitioner based on the conviction warrant. He would further submit that to show his bonafide the petitioner is ready to deposit 50% of the cheque amount. Hence, prayed for granting of suspension of sentence.

5.Considering the submissions and on perusal of the materials, it is seen that prima facie case is made out. Further, the petitioner is ready and willing to deposit 50% of the cheque amount, this Court is inclined to grant suspension of sentence of imprisonment till the disposal of the revision petition.

6.In view of the above, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision on condition that the petitioner shall deposit 50% of the cheque amount i.e., Rs.4,25,000/- [Rupees Four Lakhs Twenty Five Thousand only] to the credit of S.T.C.No.64 of 2024 on the file of the learned Judicial Magistrate, Fast Track Court, Thiruthuraipoondi and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of



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Rs.5,000/- (Rupees Five Thousand only) with two sureties each for a like sum to the satisfaction of the trial Court within a period of fifteen days from the date of receipt of a copy of this order. At the time of executing the sureties, the petitioner to produce the proof of deposit of 50% of cheque amount. The Trial Court is directed to receive the deposit amount.

7. Accordingly, this Miscellaneous Petition is ordered.

04.04.2025

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Note: Issue order copy on 04.04.2025



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To

- 1.The Principal District and Sessions Judge,
Thiruvarur.
- 2.The Judicial Magistrate,
Fast Track Court,
Thiruthuraipoondi.



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M. NIRMAL KUMAR, J.

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