



CrI.O.P.No.11317 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.11317 of 2025

1. Kannan Textiles,
rep. by its Proprietor Mr.Selvakumar, M/A51,
No.100, Trichy Road, Police Quarters Opposite,
Palladam 641 661.

2. Selvakumar (Proprietor), M/A 51,
M/s Kannan Textiles,
S/o Cinnappan, Maniyakarar Thottam,
Ammapalayam, Palladam,
Tiruppur District 641 664.

...Petitioners

-Vs-

M/s Harshini Textiles Limited,
rep. by Senior Manager K.Jeyakumar,
No.504, Avinashi Road, Pellamedu,
Coimbatore District

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to set aside the condition made in
Miscellaneous petition No.2 of 2024 in CrI.A.No.267 of 2024, dated
03.09.2024 that to deposit a sum of Rs.2,17,494/- towards the part of
compensation amount before the Trial Court on or before 18.10.2024 by
the Principal District & Sessions Judge, Coimbatore on 03.09.2024.



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CrI.O.P.No.11317 of 2025

For Petitioner(s): Mr.K.Jothisivam

ORDER

This Criminal Original Petition has been filed challenging the order passed in Miscellaneous petition No.2 of 2024 in CrI.A.No.267 of 2024 dated 03.09.2024 thereby suspended the sentence of the petitioners on condition that the petitioner shall deposit a sum of Rs.2,17,494/- towards the part of compensation before the Trial Court on or before 18.10.2024 by the Principal District & Sessions Judge, Coimbatore on 03.09.2024.

2. The petitioners are accused in the complaint lodged by the complainant for the offence under Section 138 of NI Act in C.C.No.69 of 2017 on the file of Judicial Magistrate , Fast Track Court @ Magistrate Level-II, Coimbatore. After full fledged trial, the Trial Court convicted the petitioners for the offence punishable under Section 138 of NI Act and sentenced the 2nd accused to undergo simple imprisonment for a period of nine months and also the petitioners are directed to pay compensation of Rs.10,87,469/- to the complainant. Aggrieved by the same, the petitioners preferred an appeal in CrI.A.No.267 of 2024 and



CrI.O.P.No.11317 of 2025

also filed a petition to suspend the sentence in CrI.M.P.No.2 of 2024 on the file of Principal District and Sessions Judge, Coimbatore. The Appellate Court suspended the sentence imposed by the Trial Court against the petitioners on condition that the petitioners shall deposit a sum Rs.2,17,494/- towards the part of compensation before the Trial Court on or before 18.10.2024.

3. The learned counsel for the petitioners submitted that although the petitioners had made out a prima facie case for suspension of sentence, the Appellate Court, without considering the same, suspended the sentence by imposing a condition to deposit 20% of the compensation amount before the Trial Court. He also referred to the cross-examination of P.W.1 and pointed out that the cheque in question was issued for security purpose and not towards any amount borrowed by the petitioners.

4. On perusal of the records would reveal that even assuming that the cheque was issued for security purpose, if the petitioners are liable to pay the said amount, the respondent is entitled to present the cheque for collection. Therefore, the petitioners failed to make out grounds for suspending the sentence under the given circumstances. Further, despite



CrI.O.P.No.11317 of 2025

the condition imposed under Section 138 of NI Act while suspending the sentence, the petitioners challenged the order passed by the Appellate Court after a delay of eight months, without complying with any of the conditions imposed by the Appellate Court. Therefore, this Court does not find any infirmity or illegality in the order passed by the appellate Court. Accordingly, the Criminal Original Petition stands dismissed. The Appellate Court shall take appropriate action against the petitioners in accordance with the law for non-compliance of the conditions imposed.

17.04.2025

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
nr

To

- 1.The Principal District & Sessions Judge, Coimbatore.
2. The Judicial Magistrate , Fast Track Court @ Magistrate Level-II, Coimbatore.



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Crl.O.P.No.11317 of 2025

G.K.ILANTHIRAIYAN. J.

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Crl.O.P.No.11317 of 2025

17.04.2025