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Crl.O.P.No.13291 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM:

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

Crl.O.P.No.13291 of 2025

David John @ John

.... Petitioner

Vs

M/s Paceman Finance India Private Ltd
Rep by its Director
Mr. D. Rahulkumar,
Crescent Court, Suit No.21, 3rd Floor,
No.963, Poonamallee High Road,
Chennai 600084.

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct to relax the condition the petitioner shall deposit 20% of the compensation amount before the Trial Court at credit of S.T.C. within sixty days from the date of order and set aside the order of petition for suspension of sentence order in Crl.M.P.No.01 of 2025 dated 30.01.2025. page No.2 Para No.7 in Crl.A.No.100 of 2025 by the Principal Sessions Judge at Chennai and allow the suspension of sentence passed in C.C.No.6466 of 2017 by the Learned XXVI Metropolitan Magistrate Court, Egmore, Chennai,

For Petitioner : Mr.V.T.Narendiran



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ORDER

This Criminal Original Petition has been filed challenging

the order dated 30.01.2025 passed in Crl.M.P.No.01 of 2025 in Crl.A.No.100 of 2025, thereby suspending the sentence imposed on the petitioner subject to the condition that the petitioner shall deposit 20% of the compensation amount before the Trial Court to the credit of S.T.C.No.3045 of 2023 within a period of sixty days.

2. Heard the learned counsel appearing 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 in S.T.C.No.3045 of 2023 on the file of the XXVI Metropolitan Magistrate, Egmore, Chennai. After a full-fledged trial, the Trial Court convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one year and also awarded compensation to the cheque amount. Aggrieved by the same, the petitioner preferred an appeal along with an application seeking



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suspension of sentence imposed by the Trial Court. The Appellate Court, by an order dated 30.01.2025, suspended the sentence on condition that the petitioner shall deposit 20% of the cheque amount to the credit of S.T.C.No.3045 of 2023 within a period of sixty days.

4. The learned counsel appearing for the petitioner would submit that the petitioner borrowed a loan by mortgaging immovable property. While being so, the alleged cheque was issued only as security for the said loan. However, the respondent presented the cheque for collection and initiated proceedings under Section 138 of the Negotiable Instruments Acts.

5. It is contended that though the property was mortgaged with the respondent, that does not prevent the respondent from presenting the cheque for collection to recover the loan amount. That apart, the cheque was not issued for the entire loan amount but only for a part thereof. In view of the above, this Court is of the view that the petitioner has not made out a case of exceptional circumstances warranting interference with the condition imposed by the Appellate Court, while suspending the sentence.



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6. In the light of the above, this Court is not inclined to set aside the order dated 30.01.2025 in Crl.M.P.No.1 of 2025 in Crl.A.No.100 of 2025 on the file of the Principal Sessions Judge, Chennai. However, considering the request made on behalf of the petitioner, this Court is inclined to extend the time for compliance with the condition imposed by the Appellate Court till 09.05.2025, failing which, the Appellate Court shall proceed with the appeal against the petitioner in accordance with.

7. In the result, this Criminal Original Petition stands dismissed.

29.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Note : Issue order copy today i.e., on 29.04.2025

To

The Principal Sessions Judge,
Chennai.

G.K.ILANTHIRAIYAN, J.



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