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*Crl.M.P.No.10086 of 2025
in Crl.R.C.No.619 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-05-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No.10086 of 2025
in
Crl.RC.No.619 of 2025

Ramasamy

... Petitioner

Vs.

Subramaniam

... Respondent

Prayer: This Criminal Miscellaneous Petition is filed under Section 389(1) of Cr.P.C. Under Section 438(1) of BNSS Act, to suspend the sentence imposed in C.C.No.504 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Namakkal dated 24.06.2022 confirmed by the judgment made in C.A.No.55 of 2022 dated 28.10.2024 by the Principal Sessions Judge, Namakkal.

For Petitioner : Mr.C.S.Saravanan



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ORDER

This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed upon the petitioner in C.C.No.504 of 2021, dated 24.06.2022 by the learned Judicial Magistrate, Additional Mahila Court, Namakkal, confirmed by the judgment made in C.A.No.55 of 2022 dated 28.10.2024 by the learned Principal Sessions Judge, Namakkal.

2.The petitioner/accused in C.C.No.504 of 2021 was convicted by the Trial Court by judgment dated 24.06.2022, for the offence punishable under Section 138 of Negotiable Instrument Act and was sentenced to undergo Simple Imprisonment for a period of one year and also to pay a fine of Rs.12,00,000/- to the complainant as compensation under Section 357 (3) of Cr.P.C in default to undergo simple imprisonment of one month. Aggrieved by the said conviction, the petitioner/accused preferred an appeal in C.A.No.55 of 2022 before the Principal Sessions Judge, Namakkal, who in turn by judgment dated 28.10.2024 confirmed the conviction and sentences passed by the Trial Court. Challenging the same, the petitioner/accused has come forward with the present Criminal Revision along with petition



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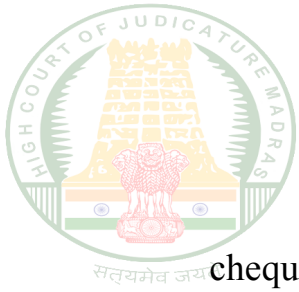
seeking suspension of sentence and bail.

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3.During trial, on the side of prosecution, P.W.1 was examined and Exhibits Ex.P1 to P4 were marked. On behalf of the petitioner/accused no witness was examined and no material object was marked. On conclusion of the Trial, on consideration of the evidence let in by the complainant/P.W.1, convicted the petitioner as cited supra.

4.The petitioner/accused borrowed a sum of Rs.6,00,000/- from the complainant/respondent herein on 20.06.2019 and issued a cheque, which came to be returned unpaid due to insufficient funds in the bank account maintained by the petitioner/accused. Hence, respondent filed a complaint, examined himself as P.W.1 and marked Ex.P1 to Ex.P4.

5.Learned counsel for the petitioner/accused would submit that Trial Court failed to consider the fact that the respondent/complainant has not proved the essential ingredients of Section 138 of Negotiable Instruments Act, since the respondent/complainant lent a loan and not sold any goods to the petitioner/accused and therefore, the borrowable of loan and issue of



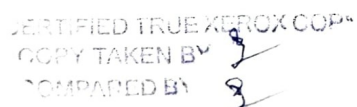
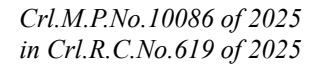
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cheque on the same day would not arise. He would further submit that the respondent/complainant has failed to prove execution of cheque in discharge of liability and therefore, petitioner is having good grounds to get success in the revision. Hence, seeks for suspension of sentence pending disposal of the revision.

6.The learned counsel further submitted that in this case, the petitioner so far deposited a sum of Rs.2,40,000/- to the credit of C.C.No.504 of 2021 before the Trial Court at the time of appeal. He would submit that now the petitioner is ready to deposit a sum of Rs.60,000/- and hence, 50% of the cheque amount of Rs.6,00,000/- i.e., Rs.3,00,000/- would be credited by the petitioner to the credit of C.C.No.504 of 2021. He further submitted that the petitioner's mother Rukmani died on 13.05.2025, as a son and devout Hindu, he has got duty and obligations to perform the rituals for his mother's death. Hence, seeks suspension of sentence.

7.A scanned reproduction of the receipt for payment of Rs.2,40,000/- made by the petitioner before the Trial Court is as follows:



Additional to the Court
Nashville.

<https://www.mhc.tn.gov.in/judis>



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not proved the execution of cheque, this Court is of the view that prima facie case is made out to entertain the Criminal Revision and also to suspend the sentence.

9.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 a sum of Rs.60,000/- [Rupees Sixty Thousand only] to the credit of C.C.No.504 of 2021 on the file of the learned Judicial Magistrate, Additional Mahila Court, Namakkal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 Rs.60,000/- to the credit of C.C.No.504 of 2021. The Trial Court is directed to receive the deposit amount.

10.Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the



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disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

11. Accordingly, this Criminal Miscellaneous Petition is ordered.

16.05.2025
(2/2)

cse/jai/gbi

Note: Issue order copy on 23.05.2025

To

1. The Principal Sessions Judge,
Namakkal.
2. The Judicial Magistrate,
Additional Mahila Court, Namakkal.
3. The Superintendent,
Central Prison, Salem.

M. NIRMAL KUMAR, J.

cse/jai



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