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CRL MP No. 21558 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-11-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL MP No. 21558 of 2025

IN

CRL RC NO. 2385 OF 2025

N.Mathesh
S/o.Natarajan,
18/24, Rajakadu Street, Erode.

Petitioner(s)

Vs

S.Dhanaraj
S/o.Sebastian,
79, Shanmugam Nilayam,
Chidhambaram Colony, Erode.

Respondent(s)

PRAYER

To suspend the sentence of imprisonment imposed in the judgement dated 05.08.2025 in C.A.No.121 of 2021 on the file of the II Additional District and Sessions Judge, Erode confirming the conviction imposed in the judgement dated 08.09.2021 in STC.No.468 of 2019 on the file of the Fast Track Court I , Erode and enlarge the petitioner on bail pending disposal of the above revision petition

For Petitioner(s): Mr. J.Ranjith Kumar

**ORDER**

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This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the learned II Addl. District and Sessions Judge, Erode in C.A.No.121 of 2021, dated 05.08.2025, confirming the Judgment dated 08.09.2021 passed in S.T.C.No.468 of 2019 by the learned Fast Track Court-I, Erode and enlarge the petitioner on bail pending disposal of the above Criminal Revision.

2. The petitioner herein is the accused in S.T.C No. 468 of 2019 on the file of the learned Fast Track Court-I, Erode. He was found guilty of the offence under Section 138 of the Negotiable Instruments Act and he has been convicted and sentenced to undergo simple imprisonment for a period of three months and awarded to pay the compensation of Rs.2,00,000/-, in default to undergo simple imprisonment for one month. Aggrieved by the same, the petitioner had filed an appeal in Crl.A No.121 of 2021 before the learned II Addl. District and Sessions Judge, Erode, by an order dated 05.08.2025, had dismissed the above appeal, confirming the judgment and sentence imposed by the trial Court. Aggrieved by the same, the present revision has been filed.

3. The learned counsel for the petitioner/accused raised the following grounds for consideration :-



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- (i) The complainant failed to establish the source of funds or financial capacity to advance a loan of Rs.13,55,000/-, especially when the alleged loan was said to be in cash and unaccompanied by proper documentation. The source of income was not proved by P.W.1.
- (ii) There were materials contradictions in the complainant's version with respect to the date, nature and extent of borrowals. These inconsistencies were brushed aside as minor, though they got to the root of the case. No independent witness was examined despite allegations of multiple earlier transactions. The complainant admitted that there were prior dealings, but failed to substantiate them.
- (iii) The courts below erred in treating the presumption under Sections 139 as conclusive. The judgments of Hon'ble Supreme Court in ***Hiten P. Dalal vs. Bratindranath Banerjee (2001) 6 SCC 16*** and ***Krishna Janardhan Bhat vs. Dattatraya Hegde (2008) 4 SCC 54*** make it clear that presumption cannot be a substitute for proof and the complainant must establish the foundational facts of the transaction.
- (iv) The court below failed to note the financial transaction between the parties has been alleged to have been made in



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cash. But, Sec.269 SS of the Income Tax Act provides that all lending beyond Rs.20,000/- needs to be made by crossed cheque or demand draft.

He would also submit that there are arguable points available in the Criminal Revision Case and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner is ready to abide any condition to be imposed by this Court.

4. Heard the learned counsel appearing for the petitioner and also perused the materials placed on record.

5. Considering the submissions of the learned counsel for the petitioner, coupled with the quantum of punishment imposed upon the petitioner and taking into consideration the fact that this criminal revision is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of suspension of sentence and bail are granted on the following conditions:

- (i) the petitioner shall deposit a sum of Rs.1,00,000/-
(Rupees one lakh only) to the credit of S.T.C.No.468 of 2019 on



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the file of learned **Fast Track Court-I, Erode**, within a period of three weeks from today. Failing which, the order passed by this Court shall stand automatically cancelled.

(ii) On such deposit being made, the respondent/complainant is permitted to withdraw the amount on filing undertaking affidavit;

(iii) On the failure of the petitioner/accused depositing the above said amount, it is open to the trial Court to commit the petitioner/accused into custody for undergoing the sentence.

(iv) On the petitioner depositing the amount as stated clause (i) supra, the sentence of imprisonment alone, imposed on the petitioner/accused, shall be suspended, on his execution of a bond for a sum of Rs.25,000/- with two sureties, each for a likesum to the satisfaction of the trial court;

(v) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(vi) The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision petition and if he is not able to appear before the trial Court on any day, he shall make



arrangements to file an application under Section 355 of BNSS, 2023 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;

6. With the above directions, this Criminal Miscellaneous Petition is ordered.

17-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. II Addl. District and Sessions Judge, Erode.

2. Fast Track Court-I, Erode.



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T.V.THAMILSELVI J.

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