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CRL MP No. 21734 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 19-11-2025**

CORAM

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**CRL MP No. 21734 of 2025**

**IN**

**CRL RC NO. 2415 OF 2025**

K.Palanisamy  
S/o.Karuppan,  
D.No.9/146, Pallapalayam, Thudupathy  
Post, Perundurai Taluk,  
Erode District - 638 052.

Petitioner(s)

Vs

S.Prakash  
S/o.Shanmugham,  
D.No.91/97, Thottiyan Katu, Kunnathur  
Road, Perundurai Taluk,  
Erode District - 638 052.

Respondent(s)

**PRAYER**

To Suspend the sentence imposed on the petitioner by the judgment of the Honble Judicial Magistrate, Fast Track Court-II, Erode dt. 18.09.2018 in S.T.C.No. 456/2013 and as confirmed by the Honble I Additional Sessions Court, Erode district by its judgement dt. 26.08.2025 in C.A.No. 373/2018 pending disposal of the present Criminal Revision petition and enlarge the petitioner on bail.



For Petitioner(s): Mr. A.Mohamed Ismail

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**ORDER**

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the learned I Addl. Sessions Court, Erode in C.A.No.373 of 2018, dated 26.08.2025, confirming the Judgment dated 18.09.2018 passed in S.T.C.No.456 of 2013 by the learned Judicial Magistrate Fast Track Court-II, 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. 373 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court-II, 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 one year and awarded to pay fine of Rs.5000/-, in default, to undergo simple imprisonment for a period of three months. Aggrieved by the same, the petitioner had filed an appeal in CrI.A No.373 of 2018 before the learned I Addl. Sessions Court, Erode, by an order dated 26.08.2025, 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 would submit that there is no legally enforceable debt between the petitioner and the respondent and also raised the following grounds for consideration :-

- (a) It is submitted that both the courts below failed to consider the correct proposition of law on presumption and had failed to consider that the petitioner had substantially rebutted the presumption under Sec.118 and 139 of Negotiable Instruments Act.
- (b) It is submitted that the courts below failed to consider the settled principles of law that the presumption under Sec.118 and 139 need not be proved by examining the accused himself, but it is sufficient that the accused rebuts the presumption by probable defence.
- (c) It is submitted that the complainant had not disputed the fact that the petitioner's father-in-law had participated in a chit operated by the complainant. In such circumstances, the petitioner had pleaded a case that since the petitioner is a Government servant, his cheques were taken as a surety for the said chit transaction. Therefore, the petitioner had presented a probable and a believable defence and therefore, the courts below ought to have considered that the presumption has been rebutted and consequently, the burden to prove the loan



transaction is upon the complainant, who had failed to prove the same.

He would 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 stating that there is no legally enforceable debt between the petitioner and the respondent and the fact that he is running a transport corporation and also 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:



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(i) the petitioner shall deposit a sum of Rs.4,00,000/- (Rupees four lakhs only) to the credit of S.T.C.No.456 OF 2013 on the file of learned **Judicial Magistrate, Fast Track Court-II, Erode**, within a period of four weeks from today.

(ii) On such deposit being made, the defacto 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



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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;

**(vii) If any deviation in complying the conditions, the suspension of sentence ordered by this Court shall stand cancelled.**

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

**19-11-2025**

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. I Addl. Sessions Court, Erode.

2. Judicial Magistrate, Fast Track Court-II, Erode.



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**T.V.THAMILSELVI J.**

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