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CRL MP No. 21568 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL MP No. 21568 of 2025

IN

CRL RC NO. 2387 OF 2025

1. V.K.V.Broilers

Rep by its Proprietor, P. Vadivel, M/a

41 years, No.47, Naraayanasamy

Layout, Irugur Road, Ondipudur,

Coimbatore. and another

2. P. Vadivel

Proprietor of V.K.V. Broilers, No.47,

Naraayanasamy Layout, Irugur Road,

Ondipudur, Coimbatore.

Petitioner(s)

Vs

1. POOVENDRAN

Proprietor, K.P.Chola Broilers,

No.1044, Thadagam Road, A.k.S.

Corner, R.S.Puram, Coimbatore-2.



2. The State rep by
Public Prosecutor, Coimbatore.

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Respondent(s)

PRAYER

To suspend the sentence imposed on the petitioners by a judgement dated 10.10.2025 made in CrI.A.No.293 of 2023 on the file of III Additional District and Sessions Judge, Coimbatore the Judgement dated made in C.C.No.10 of 2019 on the file of the Judicial Magistrate, Fast Track Court at ML, Coimbatore, pending disposal this Criminal Revision

For Petitioner(s): Mr. C.Prabakaran

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioners, seeking suspension of sentence imposed by the learned III Addl. District and Sessions Judge, Coimbatore in CrI.A.No.293 of 2023, dated 10.10.2025, confirming the Judgment dated 11.09.2023 passed in C.C.No.10 of 2019 by the learned Judicial Magistrate Court, Fast Track Court No.I, Coimbatore and enlarge the petitioners on bail pending disposal of the above Criminal Revision.

2. The petitioners herein are the accused in C.C No. 10 of 2019 on the file of the learned Judicial Magistrate Fast Track Court-I, Coimbatore. The 2nd petitioner 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 nine months and awarded to pay



the compensation of Rs.24,60,978/- jointly and severally, in default to undergo simple imprisonment for two months. Aggrieved by the same, the petitioners had filed an appeal in CrI.A No.293 of 2023 before the learned III Addl. District and Sessions Judge, Coimbatore, by an order dated 10.10.2025, 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 :-

- (i) The courts below failed to note that even as per the deposition of P.W.1, the 1st respondent does not produce the purchase ledgers and also invoices and delivery notes to prove the due amount available to the petitioners. It is pertinent to note that, the respondent does not even produce the repayment amount for the past transaction. Hence, it is cumulatively come to the conclusion that there is no clear quantified debt available to the petitioners. In view of the above, it is clear that the cheque issued for security purpose had been misused by the 1st respondent.
- (ii) The courts below failed to note that the 1st respondent being an educated person and having business transaction with G.S.T.Account, but no documents were produced to show the due to the petitioners either either in the income tax returns or



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in the G.S.T.Payment, which itself clearly reveals that there is no legally enforceable debt existing on the petitioners and thereby the petitioners rebutted the presumption under Sec.119 and 139 of N.I. Act, 1881. Hence, the judgment of conviction is liable to be set aside.

(iii) The courts below failed to note that admittedly there was a disputed amount by both the parties and there is no conclusion arrived for the accurate due amount or the debt, while that being the position, issuance of cheque for a sum of Rs.12,30,489/- as on 26.11.2018 itself is in dispute and there is no proof of such huge amount, even the bank transaction of the 1st respondent does not reveal so. In the absence of clear statement of accounts, the very case of 1st respondent/complainant fails and even the cheque was materially altered. Therefore, the rebuttal of presumption under Sec.139 of N.I. Act, 1881 ought to have held to be valid and the complaint is need to be rejected.

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.

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5. Considering the submissions of the learned counsel for the petitioner stating that there is no legally enforceable debt between the petitioners and the 1st respondent/complainant and 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.4,00,000/- (Rupees four lakhs only) to the credit of C.C.No.10 of 2019 on the file of learned **Judicial Magistrate, Fast Track Court at Magisterial Level No.1, Coimbatore**, within a period of four 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 aforesaid amount as well as earlier amount deposited before the court below on filing undertaking affidavit;



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(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. III Addl. District and Sessions Judge, Coimbatore.
2. Judicial Magistrate, Fast Track Court at Magisterial Level No.1, Coimbatore.



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T.V.THAMILSELVI J.

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