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CRL MP No. 21797 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-11-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL MP No. 21797 of 2025

IN

CRL RC NO. 2425 OF 2025

D.Prasad
S/o.Veeraraghavan Naidu,
No. 11, Kadambadi Amman Koil Street,
Valasaravakkam, Chennai 600 087.

Petitioner(s)

Vs

K.Gopalakrishnan
New No. 4, Old No. 2, 2nd Floor,
Vathiyar Thottam Main Road,
Rangarajapuram, Kodambakkam,
Chennai -600 024.

Respondent(s)

PRAYER

To suspend the sentence imposed on the petitioner in the judgment dt. 30.06.2023 in C.C.No. 2165/2018 on the file of the Learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai confirmed in Criminal Appeal No.458/2023 dt. 28.05.2025 by the Learned I Addl. Sessions Judge, V Additional Sessions Judge, (FAC) City Civil Court at Chennai, pending disposal of the above Crl.RC



For Petitioner(s): Mr. I.Abdul Basith

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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 Judge, V Addl. Sessions Judge, (FAC), City Civil Court, Chennai in C.A.No.458 of 2023, dated 28.05.2025, confirming the Judgment dated 30.06.2023 passed in C.C.No.2165 of 2018 by the learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Revision.

2. The petitioner herein is the accused in C.C No. 2165 of 2018 on the file of the learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai. 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 six months and awarded to pay the cheque amount, in default, to undergo simple imprisonment for one month. Aggrieved by the same, the petitioner had filed an appeal in Crl.A No.458 of 2023 before the learned I Addl. Sessions Judge, V Addl. Sessions Judge (FAC), City Civil Court, Chennai, by an order dated 28.05.2025, 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 the real transaction between the parties was suppressed and the source of income of respondent was also not been proved before the trial court, inspite of that, he was convicted. He would also raised the following grounds for consideration :-

- (a) That the impugned judgement dated 28.05.2025 in Criminal Appeal in 458 of 2023 and the conviction judgment dated 30.06.2023 in C.C.No.2165 of 2018 are contrary to law, facts and evidence on record and suffer from erroneous appreciation of evidence and arbitrary exercise of judicial discretion and contrary to the settled principle of law warranting interference under Sec.438 and 442 of BNSS
- (b) That the trial court and the appellate court fallen to error and exercise their judicial discretion erroneously and arbitrarily despite transaction of huge in cash and despite defence evidence was adduced by the petitioner to rebut the statutory presumption leading probable defence, which is sufficient and not one that of beyond reasonable doubt. As such, the order of trial court and appellate court judgment legally and factually erroneous will not withstand judicial scrutiny.
- (c) That the trial court and appellate court failed to consider that the respondent admitted that he is an income tax assessee, but failed



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to produce any income tax return, bank statement, or credible source of funds to substantiate that he possessed and advanced Rs.40,00,000/- to the petitioner, especially without any documentary proof of source of funds, in violation of Sec.269 SS of the Income Tax Act. It is further submitted that the respondent has vaguely stated the funds were sourced from his wife's savings and friends, but produced no corroborative documents or witness to support this.

(d) That the trial court and appellate court failed to consider the admission of P.W.1/respondent that the alleged amount of Rs.40,00,000/- was not solely from his own funds, but included unspecified contributions from his wife and relatives, without furnishing any documents to substantiate the same. It is further submitted that PW1 candidly admitted that his wife was not employed and that there were no proper accounting records or bank entries to support the source of funds. The relevant portion of the cross-examination as under :-

“எதிரிக்கு கொடுத்த பணம் மொத்தம் என்னுடைய பணமா என்றால் என்னுடைய பணம் மற்றும் குடும்பத்தில் உள்ளவர்களுடைய சேமிப்பு மொத்தம் சேர்ந்தது. அந்த பணம் நான் மற்றும் என்னுடைய மனைவியுடையது என்றால் சரிதான். என்னுடைய மனைவி ஏதாவது தொழில் செய்து வருகிறாரா என்றால் இல்லை. என் மனைவிக்கு நான் கொடுத்த பணம் தான் என்றால் இல்லை”.



By submitting the aforesaid grounds, 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 stating that real transaction between the parties was suppressed and the source of income of respondent was also not been proved before the trial court, inspite of that, he was convicted, however, he is having valid defence to prove his case 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.3,00,000/- (Rupees three lakhs only) to the credit of C.C.No.2165 of 2018 on the file of learned **III Fast Track Metropolitan Magistrate, Saidapet, Chennai**, 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 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;



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(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;

(vii) If any violation in complying the conditions, the suspension of sentence ordered by this court shall stand vacated.

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 Judge, V Addl. Sessions Judge (FAC) City Civil Court, Chennai.

2. III Fast Track Metropolitan Magistrate, Saidapet, Chennai.



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T.V.THAMILSELVI J.

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