



Crl.OP.No.32480 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2025

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

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Narayanan

...Petitioner

Vs.

Anbazhagan

...Respondent

Criminal Original Petition filed under Section 528 of BNSS, 2023, to set aside the order passed by the Court of Sessions Division of Tirupattur District in Crl.M.P.No.1435 of 2025 in Crl.A.No.NIL of 2025 dated 22.10.2025.

For Petitioner : Mr.E.Kannadasan

ORDER

This criminal original petition has been filed seeking quashment of the order dated 22.10.2025 passed by the learned District and Sessions Judge, Tirupattur District in Crl.M.P.No.1435 of 2025 in un-numbered Crl.A.No. NIL of 2025.



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2. It is the case of the petitioner that the respondent/complainant filed a complaint under Section 200 of Cr.P.C. r/w. Sections 138 and 142 of the Negotiable Instruments Act, 1881 as against the petitioner in STC.No.629 of 2017 before the learned Judicial Magistrate No.II, Tirupattur and the trial court, vide order dated 25.06.2025, convicted the petitioner for the offence under Section 138 of the NI Act and sentenced him to undergo simple imprisonment for a period of one year and further directed him to pay a sum of Rs.5,20,000/- towards compensation in favour of the respondent/complainant within a period of one month, in default to undergo simple imprisonment for a further period of one month. Aggrieved by the same, the petitioner preferred an appeal before the Court of Sessions Division of Tirupattur District in Crl.A.No.NIL of 2025 along with Crl.M.P.No.1435 of 2025, seeking suspension of sentence. However, the lower appellate court, without numbering the main appeal, vide order dated 22.10.2025, dismissed the said suspension of sentence petition, on the ground that Non-Bailable Warrant issued against the petitioner in STC.No.629 of 2017 by the learned Judicial Magistrate No.II, Tirupattur is pending. Challenging the same, the petitioner has come up with this petition.



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3. Though very many grounds have been raised, the learned counsel for the petitioner submitted that it is a statutory appeal and that even without numbering the appeal and hearing the petition for suspension of sentence on merits, the learned Judge had dismissed the application filed seeking suspension of sentence stating that NBW is pending. He further submitted that since because NBW is pending, the learned Appellate Judge is not precluded from numbering the appeal and passing orders on merits. Hence, he submitted that a direction may be issued to the learned Appellate Judge to number the criminal appeal and pass orders on merits.

4. On a perusal of the materials placed before this Court, it is seen that the Appellate Court, without numbering the appeal, had dismissed the application for suspension of sentence holding that NBW is pending against the petitioner.

5. Taking into consideration the limited prayer made, the Appellate Court is directed to number the appeal if it is otherwise in order and pass orders in the application for suspension of sentence on its own merits and in



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accordance with law. It is made clear that the period taken for pursuing this petition shall be excluded for the purpose of calculating the period of limitation.

6. The original records, if any, filed before this Court shall be returned to the learned counsel for the petitioner, enabling him to re-present the same before the Appellate Court.

7. With the above observations and direction, this criminal original petition stands disposed of.

05.12.2025

skt

NCC : Yes/No

To:

The District and Sessions Judge,
Tirupattur District.

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A.D.JAGADISH CHANDIRA, J.

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