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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14-02-2025

CORAM  
THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) NO.1834 of 2025  
in  
CRL RC(MD) NO.181 of 2025

V.Sankar Kumar

Petitioner

Vs

Satheesh Mervin

Respondent

For Petitioner :

Mr.A.Balakrishnan, Advocate

ORDER

This Criminal Miscellaneous Petition has been filed seeking orders to suspend the sentence imposed on the petitioner/sole accused by the learned Judicial Magistrate, Fast Track Court, Nagercoil, in S.T.C.No.268 of 2018, dated 03.07.2018,



which was confirmed by the learned Additional District and Sessions Judge (FTC),  
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Nagercoil, in CrI.A.No.129 of 2018, dated 27.01.2025.

2. The case of the respondent/complainant is that the petitioner borrowed a loan of Rs.6,00,000/- from the respondent on 10.09.2013 and agreed to repay the same on or before December 2013, that the respondent demanded the said amount on 05.01.2014, for which, the petitioner issued a cheque dated 21.01.2014 for Rs.6,00,000/-, that when the respondent has presented the cheque for collection on 21.01.2014, the same was returned with reason "Funds Insufficient", that the respondent has then sent a legal notice dated 05.02.2014 to the petitioner demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 07.02.2014, that the petitioner, after receiving the notice, has neither sent any reply nor paid any amount and that therefore, the respondent has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act against the petitioner.

3. It is seen from the records that the petitioner has been convicted by the trial Court for the alleged offence punishable under Section 138 of Negotiable Instruments Act and sentenced to undergo Simple Imprisonment for a period of six months and also directed to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default, to undergo Simple Imprisonment for a period of one month. Challenging the above said



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conviction and sentence, the petitioner has filed an appeal in CrI.A.No.129 of 2018 on the file of the learned Additional District and Sessions Court (FTC), Nagercoil. The learned Additional District and Sessions Judge confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision Case along with the above miscellaneous petition seeking suspension of sentence.

4. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner is ready to deposit some portion of the cheque amount.

5. This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.

6. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner



herein is entitled to the relief of grant of suspension of sentence.

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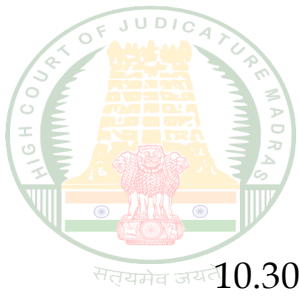
7. In the result, this Criminal Miscellaneous Petition is ordered. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit Rs.2,00,000/- (Rupees Two Lakhs only) on or before 13.03.2025 to the credit of S.T.C.No.268 of 2018 on the file of the Fast Track Court (Magisterial Level), Nagercoil, failing which the sentence suspended shall automatically dismissed and the concerned jurisdictional police is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Fast Track Court (Magisterial Level), Nagercoil;

(iii) 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 to ensure their identity; and

(iv) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at



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10.30 a.m., until further orders 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 317 of Cr.P.C 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.

8. Post the matter on 17.03.2025 'for reporting compliance'.

sd/-  
14/02/2025

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25 /02/2025  
Sub-Assistant Registrar ( )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

csm  
TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC),  
NAGERCOIL.

2 THE JUDGE,  
FAST TRACK COURT (MAGISTRERIAL LEVEL),  
NAGERCOIL.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.

ORDER  
IN  
CRL MP(MD) No.1834 of 2025  
Date :14/02/2025

NBF /SAR/ (25/02/2025) 5P/4C

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