



CRL RC(MD) No.345 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18-03-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos.3568 and 3570 of 2025

in

CRL RC(MD) No.345 of 2025

D.Saravanakumar

Petitioner in
both the petitions

Vs

V.Meena

Respondent in
both the petitions

For Petitioner in both the petitions:

Mr.C.Susikumar, Advocate

Prayer in CRL MP(MD).3568 of 2025 :

This Criminal Miscellaneous Petition filed under Section 438 BNSS praying to suspend the sentence of imprisonment imposed by the learned Principal District and Session Judge, Virudhunagar District at Srivilliputtur in Crl.A.No.54 of 2021 by confirming the conviction and sentence of imprisonment imposed by the learned Fast Track Judicial Magistrate Court, Srivilliputtur in C.C.No.798 of 2019 by the judgment dated 01.04.2021 and enlarge the petitioner on bail pending disposal of this criminal revision.

Prayer in CRL MP(MD).3570 of 2025 :

This Criminal Miscellaneous Petition filed under Section 528 BNSS praying to exempt the petitioner from surrender in pursuant to the judgment dated 18.11.2024 by the learned Principal District and Session Judge, Virudhunagar District at Srivilliputtur in Crl.A.No.54 of 2021 by confirming the conviction and sentence of imprisonment imposed by the learned Fast Track Judicial Magistrate Court, Srivilliputtur in C.C.No.798 of 2019 by the judgment dated 01.04.2021.



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COMMON ORDER

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These Criminal Miscellaneous Petitions have been filed (i) to suspend the sentence and compensation imposed on the petitioner/sole accused by the learned Judicial Magistrate, Fast Track Court, Srivilliputtur, in C.C.No.798 of 2019, dated 01.04.2021, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, in Crl.A.No.54 of 2021, dated 18.11.2024 and (ii) to exempt the petitioner to surrender before the trial Court.

2. The case of the respondent/complainant is that the petitioner borrowed a loan of Rs.4,00,000/- from the respondent on 15.06.2018 agreeing to repay the same within one year with interest at 12% and when the respondent demanded the amount, the petitioner has issued a post-dated cheque dated 20.06.2019 for Rs.4,00,000/-, that when the respondent has presented the cheque for collection on 20.06.2019, the same was returned with reason "Funds Insufficient", that the respondent has then sent a legal notice dated 03.07.2019 to the petitioner demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 04.07.2019, that the petitioner, after receiving the notice, has sent a reply notice on 22.07.2019 disputing the liability and the issuance of the cheque and that therefore, the respondent has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act against the petitioner.



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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 r/w 142 of Negotiable Instruments Act and sentenced to undergo Simple Imprisonment for a period of 2 years and also directed to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for a period of 3 months. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.54 of 2021 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur. The learned Principal 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 petitions.

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 has already deposited 20% of the cheque amount before the appellate Court and he is ready to deposit some portion of the remaining cheque amount as directed by this Court.

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



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on record.

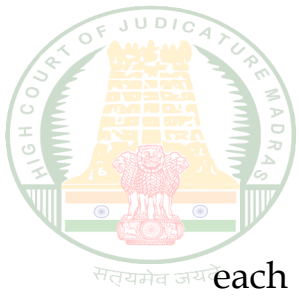
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6. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal 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.

7. In the result, the Criminal Miscellaneous Petition in Crl.M.P.(MD)No.3568 of 2025 is ordered. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit 40% of the remaining cheque amount on or before 15.04.2025 to the credit of C.C.No.798 of 2019 on the file of the Judicial Magistrate, Fast Track Court, Srivilliputtur, 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,



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each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court, Srivilliputtur;

(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 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 355 B.N.S.S. (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. Accordingly, Crl.M.P.(MD)No.3570 of 2025 is dismissed.

9. Post the matter on 16.04.2025 'for reporting compliance'.

sd/-
18/03/2025

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28/03/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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CSM जयते
TO
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1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, SRIVILLIPUTTUR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

+2 CC to M/s.M.JANANI PRIYA, Advocate (SR-3084 & 3085 [I] dated 19/03/2025)

ORDER IN
CRL MP(MD) Nos.3568 and 3570 of 2025
in CRL RC(MD) No.345 of 2025
Date :18/03/2025

SA/SAR. /28.03.2025/6P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.