



in CRL RC(MD) No. 266 OF 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03-03-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos. 2728 and 2729 of 2025
in CRL RC(MD) No. 266 OF 2025

R.Subbuthai

W/o. Late. Albert, No.3/600A, Chidambaram Nagar, Behind
LIC, Sattur, Virudhunagar District.

Petitioner(s)

Vs

Saravanan

S/o. Ganapathyraj, No.24/W-11, Surulimain Road,
Kamayagoundenpatti, Uthamapalayam Taluk, Theni District.

Respondent(s)

For Petitioner(s):

Mr.S.Balaji

ORDER

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Uthamapalayam, Theni District in C.C.No.27 of 2021, dated 28.03.2023, which was confirmed by the learned Additional District Judge, (FTC), Theni, in Crl.A.No.53 of 2023, dated 04.11.2024.

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.9,00,000/- from the complainant on 13.09.2020 for his urgent needs ; that the petitioner has issued a cheque bearing No.572023, dated 14.12.2020 in favour of



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the complainant drawn at State Bank of India, Sivakasi, towards discharge the borrowal amount; that on 21.12.2020, the complainant has presented the cheque for collection, the same was returned on 16.12.2020 with reason as "Exceeds Arrangement"; that the complainant has sent a legal notice, dated 06.01.2021 to the petitioner demanding repayment of the amount covered by the cheque and that the petitioner after receiving the notice neither paid the cheque amount nor replied to the legal notice. Hence, the complainant has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.4,50,000/-, in default, to undergo three months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.53 of 2023 on the file of the learned Additional District Judge, (FTC) Theni. The learned Additional District Judge, (FTC) Theni, confirming the conviction and sentence, dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.



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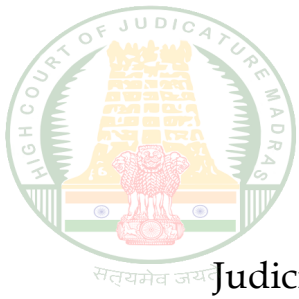
5. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already deposited a sum of Rs.4,50,000/- and out of the compensation amount, the petitioner has also deposited a sum of Rs.1,50,000/- before the concerned Court.

6. 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.

7. 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.

8. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

- (i) The petitioner shall deposit 50% of the balance compensation amount on or before 03.04.2025 to the credit of C.C.No.27 of 2021 on the file of the



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Judicial Magistrate, Uthamapalayam, Theni District, 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 learned learned Additional District Judge, (FTC) Theni;

(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 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.

Consequently, Crl.M.P(MD)No.2729 of 2025 is dismissed.



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9. Post the matter on 04.04.2025 'for reporting compliance'.

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sd/-
03/03/2025

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/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS
TO
1 THE ADDITIONAL DISTRICT JUDGE(FTC),
THENI.

2 THE JUDICIAL MAGISTRATE,
UTHAMAPALAYAM.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THENI.

+1 CC to M/s.S.BALAJI, Advocate (SR-2359[I] dated 04/03/2025)

ORDER
IN
CRL MP(MD) Nos. 2728 and 2729 of 2025
in CRL RC(MD) No. 266 OF 2025
Date :03/03/2025

SA/GSV/SAR. /12.03.2025/5P/5C

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