



CRL MP(MD) No.4197 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28-03-2025

CORAM
THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.4197 of 2025
in
CRL RC(MD) No.415 of 2025

D.Edwin Jeya Raj

Petitioner

Vs

M.S.Chenthil Deebu

Respondent

For Petitioner: Mr.G.Anto Prince, Advocate
For Respondent: Mr.M.Suri, Advocate

This Criminal Miscellaneous Petition filed under Section 438(i) BNSS praying to suspend the sentence made in S.T.C.No.243 of 2020 dated 02.03.2023, made in on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Nagercoil, Kanyakumari District, as confirmed by the judgment dated 24.01.2025, made in Crl.A.No.25 of 2023 on the file of the learned Additional District and Sessions Judge (Fast Track), Nagercoil, Kanyakumari District, pending disposal of the above criminal revision case.

ORDER

The Criminal Miscellaneous Petition has been filed to suspend the sentence and compensation imposed on the petitioner/sole accused by the learned Judicial



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Magistrate, Fast Track Court (Magisterial Level), Nagercoil, in S.T.C.No.243 of 2020, dated 02.03.2023, which was confirmed by the learned Additional District and Sessions Judge (Fast Track), Nagercoil, in Crl.A.No.25 of 2023, dated 24.01.2025, till the disposal of the criminal revision.

2. The case of the respondent/complainant is that the petitioner borrowed a loan of Rs.17,50,000/- from the respondent on 24.03.2018 and executed a promissory note and agreeing to repay the amount with interest at 12% per annum, that when the respondent asked the petitioner to repay the amount, the petitioner issued two cheques bearing Nos.118991 and 118992, that when the respondent has presented the cheque bearing No.118992 dated 25.09.2020 for Rs.5,50,000/- for collection on 28.09.2020, the same was returned with reason "Funds Insufficient", that the respondent has then sent a statutory notice dated 03.10.2020 to the petitioner demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 06.10.2020, 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



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Act and sentenced to undergo Simple Imprisonment for a period of one year and also directed to pay a compensation of Rs.5,50,000/- within four months, in default, to undergo Simple Imprisonment for a period of one month. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.25 of 2023 on the file of the Additional District and Sessions Court (Fast Track), Nagercoil. The learned Additional District 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 compensation amount as directed by this Court.

5. This Court has carefully considered the rival contentions putforth by the learned counsel on either side 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



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revision and further the criminal revision is not likely to be taken up for final hearing
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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 is ordered. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit 60% of the compensation amount on or before 23.04.2025 to the credit of S.T.C.No.243 of 2020 on the file of the Judicial Magistrate, 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 Judicial Magistrate, 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



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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. Post the matter on 24.04.2025 'for reporting compliance'.

sd/-
28/03/2025

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15/04/2025

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

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TO

- 1 THE JUDICIAL MAGISTRATE, FAST TRACK COURT (MAGISTRATE LEVEL),
NAGERCOIL, KANYAKUMARI DISTRICT.
- 2 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FAST TRACK),
NAGERCOIL, KANYAKUMARI DISTRICT.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATRE, KANYAKUMARI
DISTRICT AT NAGERCOIL.



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ORDER
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in
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Date :28/03/2025

NBF/SAR/ (15/04/2025) 6P/4C

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