



CRL MP(MD) No. 4157 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01-04-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No. 4157 of 2025
in CRL RC(MD) No. 410 of 2025

Jagabar Shadik

Petitioner

Vs

K.Balakrishnan Pillai

Respondent

Prayer in CRL MP(MD) No. 4157 of 2025 : Criminal Miscellaneous Petition filed under Section 438(1) of BNSS., seeking orders to suspend the sentence imposed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur District in S.T.C. No.119 of 2021, dated 31.07.2023, which was confirmed by the learned Principal Sessions Judge, Thanjavur in C.A.No.201 of 2023, dated 12.02.2025 pending disposal of the criminal revision.

Prayer in CRL RC(MD) No. 410 of 2025 : Criminal Revision Petition filed under Sections 438 r/w 442 BNSS, to call for the records pertaining to the judgment, dated 12.02.2025 passed by the learned Principal Sessions Judge, Thanjavur in C.A.No.201 of 2023 confirming the judgment, dated 31.07.2023 passed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur District in S.T.C.No.119 of 2021 and set aside the same.

For Petitioner : Mr.R.L.Dhilipan Pandian

ORDER

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate (FTC at Magisterial Level) Thanjavur, in S.T.C.No.119 of 2021, dated 31.07.2023, which was confirmed by the learned Principal



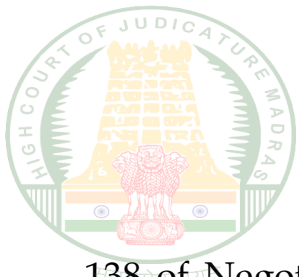
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Sessions Judge, Thanjavur, in C.A.No.201 of 2023, dated 12.02.2025.

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2. The case of the complainant is that on 29.05.2020, the petitioner/accused borrowed a sum of Rs.7,00,000/- from the complainant and executed a pronote on that day itself in favour of the complainant; that thereafter agreed to repay the said amount with interest at 12% per annum within six months from the date of borrowal; that the accused has not properly paid the interest, but he paid the interest amount totally to the tune of Rs.29,000/- on various dates; that when the respondent/complainant demanded the accused to repay the amount, the petitioner has issued a post dated cheque bearing No.035190 drawn on Indian Bank, Koothanallur Branch, Thiruvarur District towards discharge of the debt; that on 30.04.2021, the complainant has presented the cheque for collection through State Bank of India, SME Branch, Thanjavur, but the same was returned on 01.05.2021 with reason as "Insufficient Funds"; that the complainant has sent a legal notice, dated 17.05.2021 to the petitioner demanding repayment of the amount covered by the cheque and that the petitioner after receiving the notice on 18.05.2021, 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



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138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.4,57,000/-, within one month, in default, to undergo two months simple imprisonment.

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4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.201 of 2024 on the file of the Principal Sessions Court, Thanjavur. The learned Principal Sessions Judge, Thanajvur, 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.

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.91,400/- before the Court below and he is ready to deposit some portion of the remaining amount.

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



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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 remaining compensation amount on or before 28.04.2025 to the credit of S.T.C.No.119 of 2021 on the file of the Judicial Magistrate (FTC at Magisterial Level), Thanajvur 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 Judicial Magistrate (FTC at Magisterial Level), Thanajvur;

(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 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.

9. Post the matter on 29.04.2025 'for reporting compliance'.

sd/-

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/04/2025

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

DAS

TO

1 THE PRINCIPAL SESSIONS JUDGE,
THANJAVUR.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL,
THANJAVUR DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.



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ORDER
IN
CRL MP(MD) No. 4157 of 2025
in CRL RC(MD) No. 410 of 2025
Date :01/04/2025

SA/SAR. /04.04.2025/6P/5C

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