



in CRL RC(MD) No.449 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07-04-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos. 4648 and 4649 of 2025

in CRL RC(MD) No.449 of 2025

M/s.Omega Rep.by L.S.Promod (Proprietor)
S/o.Lazer,
3-6 Engineering and Technologies,
KNMS Hall, 1st Floor, Near Hospital Junction,
Neyyattrankara, Trivandrum – 695 121.

2.L.S.Promod,
Proprietor, M/s.Omega.

Petitioners

Vs

S.M.M.Chandrasekar

Respondent

Prayer in CRL MP(MD) No. 4648 of 2025 : Criminal Miscellaneous Petition filed under Section 438(1) of Cr.P.C., seeking orders to suspend the sentence imposed by the learned Principal District and Sessions Judge at Srivilliputhur, Virudhunagar District, dated 12.02.2025 in Crl.A.No.95 of 2023 by confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District made in S.T.C.No.117 of 2020, dated 17.03.2023.

Prayer in CRL MP(MD) No. 4649 of 2025 : Criminal Miscellaneous Petition filed under Section 528 of BNSS., seeking orders to exempt the petitioners from surrender in connection with conviction and sentence as imposed on the petitioner by the learned Principal District and Sessions Judge at Srivilliputhur, Virudhunagar District,



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dated 12.02.2025 in Crl.A.No.95 of 2023, confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District made in S.T.C.No.117 of 2020, dated 17.03.2023.

For Petitioner(s):
Mr.S.Palanivelayutham

ORDER

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District in S.T.C.No.117 of 2020, dated 17.03.2023, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur in Crl.A.No.95 of 2023, dated 12.02.2025.

2. The case of the complainant is that the petitioner and the defacto complainant have entered into an agreement with a proposal to start a poultry farm in the name of the complainant; for which a sum of Rs.25,00,000/- as advance, was paid by the complainant ; that thereafter, the petitioner has not acted upon with the agreement and hence, the complainant cancelled the agreement; thereafter, in regard to return the advance amount, the petitioner has issued a cheque bearing No.497491, dated 02.12.2019 drawn on State Bank of India, Neyyattinkara Branch in favour of the complainant; that the complainant has presented the cheque for collection on 02.12.2019, the same was returned on 03.12.2019 with reason as "Funds Insufficient";



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that the complainant has sent a legal notice, dated 28.12.2019 to the petitioner demanding repayment of the amount covered by the cheque and that the petitioner after receiving the notice on 03.01.2020, 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 petitioners would submit that the second petitioner has been convicted by the trial Court for the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.50,00,000/-, 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.95 of 2023 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur. The learned Sessions Judge, 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



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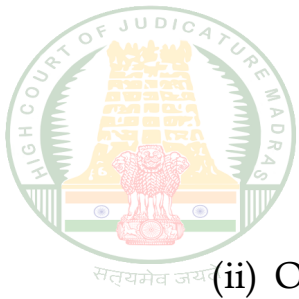
further submit that the petitioner is ready to deposit the some portion of the
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compensation amount as directed by this Court.

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. In the result, CRL MP(MD)No. 4648 of 2025, is allowed. The relief of suspension of sentence is granted to the petitioner on the following conditions:-

- (i) The petitioner shall deposit 50% of the compensation amount on or before 02.06.2025 to the credit of S.T.C.No.117 of 2020 on the file of the Judicial Magistrate No.I, Sivakasi, 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;



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(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, Judicial Magistrate, Srivilliputhur ;

(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 MP(MD) No.4649 of 2025, is dismissed.

9. Post the matter on 03.06.2025 'for reporting compliance'.

sd/-
07/04/2025

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/04/2025

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



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das
TO
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- 1.The Principal District and Sessions Judge, at Srivilliputhur, Virudhunagar District.
- 2.The Fast Track Court, Judicial Magistrate, Srivilliputhur.
- 3.The Judicial Magistrate No.I, Sivakasi, Virudhunagar District.
- 4.Do through The Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur.

ORDER
IN
CRL MP(MD) No.4648 and 4649 of 2025
in
CRL RC(MD) No.449 of 2025
Date :07/04/2025

NBF/SAR/ (22/04/2025) 6P/5C

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