



CRL RC(MD) No.508 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21-04-2025

CORAM
THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos.5231 and 5232 of 2025

in

CRL RC(MD) No.508 of 2025

Kumar

Petitioner in
both the petitions

Vs

Santhakumar

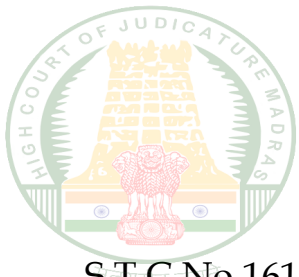
Respondent in
both the petitions

(in both the petitions)

For Petitioner: Mr.M.R.Sreenivasan, Advocate

Prayer in CRL MP(MD).5231 of 2025 :

This Criminal Miscellaneous Petition filed under Section 438(1) B.N.S.S. praying to pass an order of suspension of sentence imposed by the learned Additional District and Sessions Judge, Kuzhithurai in C.A.No.53 of 2018 dated 25.03.2025 confirming the judgment of conviction and sentence passed in



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S.T.C.No.161 of 2015 passed by the learned Judicial Magistrate No.I, Kuzhithurai dated 06.03.2018 pending disposal of this criminal revision petition.

Prayer in CRL MP(MD).5232 of 2025 :

This Criminal Miscellaneous Petition filed under Section 528 B.N.S.S. praying to pass an order of exemption from surrender before the trial Court in pursuant to the conviction and sentence imposed by the learned Additional District and Sessions Judge, Kuzhithurai in C.A.No.53 of 2018 dated 25.03.2025 confirming the judgment of conviction and sentence passed in S.T.C.No.161 of 2015 passed by the learned Judicial Magistrate No.I, Kuzhithurai dated 06.03.2018.

COMMON ORDER

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 No.1, Kuzhithurai, in S.T.C.No.161 of 2015, dated 06.03.2018, which was confirmed by the learned Additional District and Sessions Judge, Kuzhithurai, in Crl.A.No.53 of 2018, dated 25.03.2025 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.5,00,000/- from the respondent on 08.12.2014 and issued a post-dated cheque dated 09.01.2015, that when the respondent has presented the cheque for collection on 09.01.2015, the same was returned with reason "Funds insufficient" on 12.01.2015, that the respondent has then sent a legal notice dated 20.01.2015 to the petitioner demanding repayment of the amount covered by the cheque and the same



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was received by the petitioner on 21.01.2015, that the petitioner, after receiving the notice on 04.02.2015 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.

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 Act and sentenced to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for a period of two months and also directed to pay compensation of Rs.5,00,000/-. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.53 of 2018 on the file of the Additional District and Sessions Judge, Kuzhithurai. The learned 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 paid the fine amount and that the



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

5. This Court has carefully considered the contentions putforth by the learned counsel appearing for the petitioner 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 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 CrI.M.P.(MD)No.5231 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 60% of the compensation amount on or before 05.06.2025 to the credit of S.T.C.No.161 of 2015 on the file of the Judicial Magistrate No.1, Kuzhithurai, 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 Judicial Magistrate No.1, Kuzhithurai;

(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.5232 of 2025 is dismissed.

9. Post the matter on 06.06.2025 'for reporting compliance'.

sd/-
21/04/2025

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/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM



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To धर्ममेव जयते

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1.The Additional District and Sessions Judge,
Kuzhithurai.

2. The Judicial Magistrate No.1,
Kuzhithurai.

3. Do through the Chief Judicial Magistrate,
Kanyakumari District.

+1. C.C. to M.R.SREENIVASAN Advocate SR.No.4513 Dated :22/04/2025

ORDER
IN
CRL MP(MD) Nos.5231 and 5232 of 2025
in
CRL RC(MD) No.508 of 2025
Date :21/04/2025

MK/SAR /24.04.2025 6P/5C

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