

CRL MP(MD) Nos. 6007 and 6008 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29-04-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos. 6007 and 6008 of 2025
in CRL RC(MD) No.547 of 2025

Nathiya

Petitioner

Vs

Amirthalingam

Respondent

Prayer in CRL MP(MD) No. 6007 of 2025 : Criminal Miscellaneous Petition filed under Section 438 r/w 442 of BNSS., seeking orders to suspend the sentence imposed by the learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai, in Crl.A.No.138 of 2024 dated 21.02.2025, confirming the order passed by the learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur in S.T.C.No.161 of 2022 dated 07.08.2023.

Prayer in CRL RC(MD) No. 547 of 2025 : Criminal Revision Petition filed under Sections 438 r/w 442 BNSS, to call for the records relating to the judgment, dated 21.02.2025 made in Crl.A.No.138 of 2024 on the file of the learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai, confirming the order passed by the learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur in S.T.C. No.161 of 2022 dated 07.08.2023 and set aside the same.

For Petitioner : Mr.S.Sathyachidambaram

ORDER

The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned III Additional District and Sessions Judge, Thanjavur @

Pattukkottai, in Crl.A.No.138 of 2024 dated 21.02.2025, confirming the order passed

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) Nos. 6007 and 6008 of 2025

by the learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur in
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S.T.C.No.161 of 2022 dated 07.08.2023.

2.The case of the complainant is that on 21.06.2022, the petitioner/accused borrowed a sum of Rs.9,00,000/- from the complainant for her family expenses ; that on the same day, the petitioner has issued a cheque bearing No.328641, drawn on State Bank of India, Pattukkottai Branch, towards discharge the borrowal amount; that on 12.09.2022, the complainant has presented the cheque for collection through Canara Bank, Pattukkottai Branch, but the same was returned on 13.09.2022 with reason as “Funds Insufficient”; that the complainant has sent a statutory notice, dated 30.09.2022 to the petitioner demanding repayment of the amount covered by the cheque and that the petitioner after receiving the notice on 10.10.2022, 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 her to undergo eight months simple imprisonment and to pay a compensation of Rs.8,10,000/-, within two months, in default, to undergo two months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed



an appeal in Crl.A.No.138 of 2024 before learned III Additional District and Sessions Judge, Thanjavur. 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 further submit that the petitioner has already deposited a sum of Rs.1,60,000/- before the appellate Court and he is ready to deposit the some portion of the remaining compensation amount as fixed 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.

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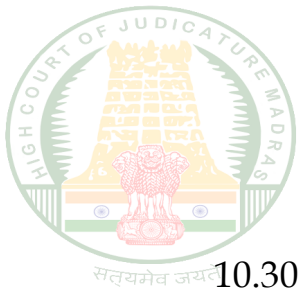
8. In the result, Crl.M.P(MD)No.6007 of 2025, is allowed. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit 50% of the remaining compensation amount on or before 09.06.2025 to the credit in S.T.C.No.161 of 2022 on the file of the Judicial Magistrate, Fast Track Court, Pattukkottai, 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 Magisterial Level) Thanjavur;

(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



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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 of BNSS (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.6008 of 2025, is dismissed.

9. Post the matter on 10.06.2025 'for reporting compliance'.

sd/-
29/04/2025

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/05/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS

TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR @ PATTUKKOTTAI.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, PATTUKKOTTAI, THANJAVUR.

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



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ORDER
IN
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in CRL RC(MD) No.547 of 2025
Date :29/04/2025

SA/SAR. /05.05.2025/6P/4C

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