



CRL RC(MD) No.953 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27-02-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos.12355 and 12356 of 2023

in

CRL RC(MD) No.953 of 2023

U.Nagarajan

Petitioner

Vs

A.Balakrishnan

Respondent

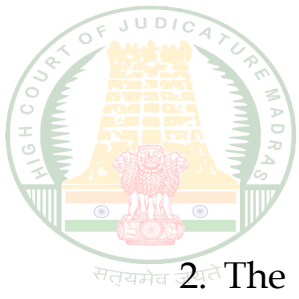
For Petitioner :

Mr.KA.Raamakrishnan, Advocate

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed (i) to suspend the sentence and the compensation imposed on the petitioner/sole accused by the learned Judicial Magistrate, Fast Track Court, Nagercoil, in S.T.C.No.287 of 2018, dated 18.06.2018, which was confirmed by the learned Additional District and Sessions Judge (FTC), Nagercoil, in Crl.A.No.97 of 2018, dated 19.07.2023 and (ii) to exempt the petitioner to surrender before the trial Court.

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

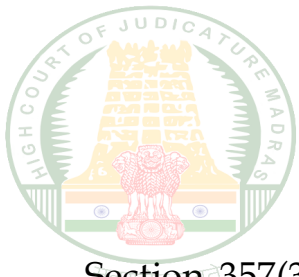


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2. The case of the respondent/complainant is that the petitioner borrowed a sum of Rs.1,50,000/- from the respondent on 22.08.2004 and issued a post-dated cheque dated 22.11.2004 to the respondent, that when the respondent has presented the cheque for collection, the same was returned with reason “funds insufficient” on 30.11.2004, that the respondent has then sent a legal notice dated 01.12.2004 to the petitioner demanding repayment of the amount covered by the cheque, that after receiving the notice, the petitioner approached the respondent at his residence on 05.12.2004 and requested him not to file any case against him and issued another cheque dated 07.06.2005 and when the same was presented for collection, the same was returned as “funds insufficient”, that the respondent has then sent a legal notice dated 16.06.2005 to the petitioner and the same was received by the petitioner on 20.06.2005, that the petitioner, after receiving the notice, has neither sent any reply nor made any payment 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 six months and also directed to pay a compensation of Rs.1,50,000/- within two months under



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Section 357(3) Cr.P.C., in default, to undergo Simple Imprisonment for a period of one month. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.97 of 2018 on the file of the Additional District and Sessions Court (FTC), Nagercoil. 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 is ready to deposit some portion of the compensation amount.

5. 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.

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



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in the near future and as such, this Court is of the considered view that the petitioner
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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.12355 of 2023 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 i.e., Rs.90,000/- (Rupees Ninety Thousand only) on or before 26.03.2025 to the credit of S.T.C.No.287 of 2018 on the file of the Fast Track Court (Magisterial Level), Nagercoil, Kanyakumari District, 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 Fast Track Court (Magisterial Level), Nagercoil, Kanyakumari District;

(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



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(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 BNSS 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.12356 of 2023 is dismissed.

9. Post the matter on 27.03.2025 'for reporting compliance'.

sd/-
27/02/2025

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05/03/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM
TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FAST TRACK COURT), NAGERCOIL.

2 THE FAST TRACK JUDGE (MAGISTERIAL LEVEL),
NAGERCOIL, KANYAKUMARI DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.



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ORDER
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in

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Date :27/02/2025

SA/SAR. /05.03.2025/6P/4C

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