



in CRL RC(MD) No.499 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos. 5130 and 5132 of 2025

in CRL RC(MD) No.499 of 2025

J.Amutha Petitioner

Vs

S.Shanumugam Respondent

Prayer in CRL MP(MD) No. 5130 of 2025 : Criminal Miscellaneous Petition filed under Section 438(1) of BNSS., seeking orders to suspend the sentence imposed in judgment, dated 20.12.2023 in Crl.A.No.67 of 2021 on the file of the learned V Additional District and Sessions Judge, Madurai, confirming the judgment, dated 22.03.2021 passed in S.T.C.No.870 of 2016 on the file of the learned Judicial Magistrate No.II, (Fast Track Court Magisterial Level) Madurai.

Prayer in CRL MP(MD) No. 5132 of 2025 : Criminal Miscellaneous Petition filed under Section 528 of BNSS., seeking orders to grant exempt the petitioner from surrender in connection with the judgment, dated 20.12.2023 in Crl.A.No.67 of 2021 on the file of the V Additional District and Sessions Judge, Madurai, confirming the judgment, dated 22.03.2021 passed in S.T.C.No.870 of 2016 on the file of the learned Judicial Magistrate No.II, (Fast Track Court Magisterial Level) Madurai.

For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondent : Mr.V.Santhakumaresan



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ORDER

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The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.II, (Fast Track Court Magisterial Level) Madurai, in S.T.C.No.870 of 2016, dated 22.03.2021, which was confirmed by the learned V Additional District and Sessions Judge, Madurai, in CrI.A.No.67 of 2021, dated 20.12.2023.

2.The case of the complainant is that the petitioner/accused borrowed a sum of Rs.5,00,000/- and Rs.7,50,000/- (totally Rs.12,50,000/-) from the complainant on 05.01.2016 and 06.01.2016 respectively, for her urgent needs and agreed to repay the said amount with interest at 2% per Rs.100/-; that on the same day, the petitioner has issued cheques bearing No.998105 and No.998106, drawn on State bank of India, Vilangudi Branch, in favour of the complainant; that the complainant has presented the cheques for collection on 11.07.2016 through his Banker Karur Vysya Bank, Thirunagar Branch, the same were returned with reason as "Funds Insufficient"; that the complainant has sent a legal notice, dated 03.08.2016 to the petitioner demanding repayment of the amount covered by the cheques and that the petitioner, after receiving the notice on 04.08.2016, has sent reply notice on 11.08.2016 with false averments. Hence, the complainant has filed a private



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complaint for the offence under Section 138 of Negotiable Instruments Act.

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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.12,50,000/-, within three 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.67 of 2021 on the file of the V Additional District and Sessions Court, Madurai. The learned V Additional District and Sessions Court Madurai, 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 is ready to deposit the some portion of the compensation amount as directed by this Court.



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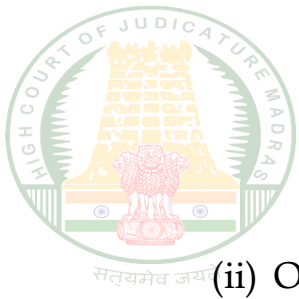
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6. This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.

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.M.P(MD)No.5130 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 60% of the compensation amount on or before 04.06.2025 to the credit in S.T.C.No.870 of 2016 on the file of the Judicial Magistrate No.II, (FTC Magisterial Level) Madurai, 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 learned Judicial Magistrate No.II, (FTC Magisterial Level) Madurai;

(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 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, CrI.M.P(MD)No.5132 of 2025, is dismissed.



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9. Post the matter on 05.06.2025 'for reporting compliance'.

sd/-
17/04/2025

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

das

To

- 1.The V Additional District and Sessions Judge, Madurai
- 2.The Judicial Magistrate No.II, (Fast Track Court Magisterial Level) Madurai.

3 THE CHIEF JUDICIAL MAGISTRATE
MADURAI.

+1 CC to M/s.V.SANTHAKUMARESAN, Advocate (SR-4453[I] dated 21/04/2025)



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ORDER
IN
CRL MP(MD) No.5130 of 2025
Date :17/04/2025

MK/SAR /24.04.2025 7P/5C

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