



CRL RC(MD) No.406 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28-03-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos.4139 and 4140 of 2025
in

CRL RC(MD) No.406 of 2025

T.Rajesh Kannan

Petitioner in
both the petitions

Vs

Sathiyamoorthi

Respondent in
both the petitions

(in both the petitions)

For Petitioner : Mr.K.R.Manimaran, Advocate

For Respondent : Mr.C.Vakeeswaran, Advocate

Prayer in CRL MP(MD).4139 of 2025 :

This Criminal Miscellaneous Petition filed under Section 430 r/w 528 BNSS praying to suspend the sentence order passed in Crl.A.No.34 of 2020 on the file of the Additional District (Fast Track) Court, Theni dated 26.07.2024 and confirming the conviction and sentence order passed in S.T.C.No.78 of 2017 on the file of the Judicial Magistrate Fast Track Court, Theni dated 28.01.2020 as against the petitioner pending disposal of this criminal revision petition.

Prayer in CRL MP(MD).4140 of 2025 :

This Criminal Miscellaneous Petition filed under Section 528 BNSS praying to exempt the petitioner from surrendering in pursuance of order in Crl.A.No.34 of 2020



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on the file of the Additional District (Fast Track) Court, Theni dated 26.07.2024 and confirming the conviction and sentence order passed in S.T.C.No.78 of 2017 on the file of the Judicial Magistrate Fast Track Court, Theni dated 28.01.2020.

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, Fast Track Court (Magisterial Level), Theni, in S.T.C.No.78 of 2017, dated 28.01.2020, which was confirmed by the learned Additional District Judge (Fast Track Court), Theni, in CrI.A.No.34 of 2020, dated 26.07.2024 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.8,00,000/- from the respondent on 28.08.2016 agreeing to repay the same within a year and issued a post-dated cheque dated 21.07.2017 for Rs.8,00,000/-, that when the respondent has presented the cheque for collection on 24.07.2017, the same was returned with reason "Funds Insufficient", that the respondent has then sent a legal notice dated 28.07.2017 to the petitioner demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 29.07.2017, that the petitioner, after receiving the notice, has neither sent any reply nor paid any amount and that therefore, the respondent has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act against the petitioner.



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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 also directed to pay a compensation of Rs.8,00,000/- with interest at 9% per annum, in default, to undergo Simple Imprisonment for a period of two months. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.34 of 2020 on the file of the Additional District (Fast Track) Court, Theni. The learned Additional District 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 deposited 20% of the compensation amount before the appellate Court and that the petitioner is ready to deposit some portion of the remaining compensation amount as directed by this Court.

5. This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and the learned counsel appearing for



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the respondent and also perused the materials available on record.

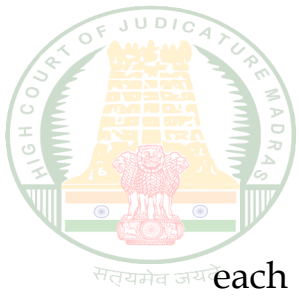
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6. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal 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 Crl.M.P.(MD)No.4139 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 50% of the remaining compensation amount on or before 24.04.2025 to the credit of S.T.C.No.78 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), Theni, 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,



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each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court (Magisterial Level), Theni;

(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.4140 of 2025 is dismissed.

9. Post the matter on 25.04.2025 'for reporting compliance'.

sd/-
28/03/2025

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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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CSM जयते
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1 THE ADDITIONAL DISTRICT JUDGE (FAST TRACK),
THENI.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT (MAGISTERIAL LEVEL), THENI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-3690[I] dated 01/04/2025)

ORDER
IN
CRL MP(MD) Nos.4139 and 4140 of 2025
in
CRL RC(MD) No.406 of 2025
Date :28/03/2025

SA/SAR. /03.04.2025/6P/5C

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