



Crl.RC(MD)No.1342 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.RC(MD)No.1342 of 2025
Crl.MP(MD)No.14631 of 2025

Shanmugam, S/o.Ramasamy,
Door No.1/321, Pandiyan Nagar, 5th Street
Karur 639 092

Revision Petitioner

Vs

M/s.Bhuvaneshwar Finance, represented
by its Managing Partner, K.K.Kumar, S/o.K.Kaliyappan
No.372, Vaiyapuri Nagar, 2nd Cross,
Karur 639002

Respondent

Prayer:- This Criminal Revision Case has been filed, under Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (businesses), to set aside the order dated, 23.06.2025, made in Crl.MP.No.582 of 2025 in CA.No.80 of 2025, by the Principal District and Sessions Judge, Karur, dismissing the Petition filed under Section 389(1) of Cr.PC, seeking suspension of sentence due to non-compliance of the condition of depositing 25% of the cheque amount.

For Revision Petitioner : Mr.K.Suresh

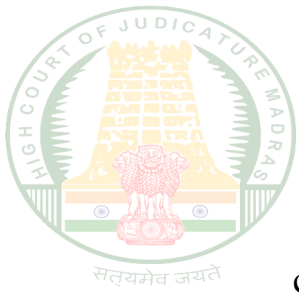


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ORDER

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1. This Criminal Revision Case has been filed, to set aside the order dated, 23.06.2025, made in Crl.MP.No.582 of 2025 in CA.No.80 of 2025, by the Principal District and Sessions Judge, Karur, dismissing the Petition filed under Section 389(1) of Cr.PC, seeking suspension of sentence, due to non-compliance of the condition of depositing 25% of the cheque amount.
2. The facts of the case, in a nutshell, led to filing of this Criminal Revision Case and necessary for disposal of the same, are as follows:-
 - a) The Respondent herein is the complainant and the Revision Petitioner is the accused. The Revision Petitioner borrowed a sum of Rs.11,10,000/- from the Respondent, by way of account transfer on three occasions, i.e. on 05.11.2019, 11.12.2019 and 19.12.2019, by executing a promissory note. Thereafter, on repeated demands, the Revision Petitioner had issued a cheque bearing No.000010, dated 20.01.2021, drawn on Lakshmi Vilas Bank Limited, Kadhaparai, for a sum of Rs.11,10,000/-. When the said cheque was presented for encashment on 24.02.2021, it was dishonoured as "Funds Insufficient". Hence, the Respondent had issued a legal notice, dated 12.03.2021. However, the Revision Petitioner did not



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come forward to repay the cheque amount. Hence, the Respondent preferred a complaint in STC.No.597 of 2021 under Section 138 of the Negotiable Instruments Act, before the Judicial Magistrate, FTC @ Magisterial Level, Karur, against the Revision Petitioner.

b) After completion of trial, The Trial Court, by its judgement, dated 27.11.2024, had convicted and sentenced the Revision Petitioner for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a compensation of Rs.11,10,000/- being the cheque amount, to the Respondent, in default to undergo one month Simple Imprisonment. As against the same, the Revision Petitioner had filed an appeal in CA.No.80 of 2025, before the Principal District and Sessions Judge, Karur, along with a Petition in Crl.MP.No.582 of 2025, under Section 389(1) of Cr.PC, seeking to suspend the sentence, imposed on the Revision Petitioner by the Trial Court, till the disposal of the appeal.

c) By the order dated 21.04.2025 in Crl.MP.No.582 of 2025, the lower appellate court had suspended the sentence, imposed by the Trial Court on the Revision Petitioner, with the following conditions:-

- i. *The Petitioner shall deposit 25% of the compensation amount to the credit of STC.No.597 of 2021, on the file of the Judicial Magistrate, FTC, Karur, on or before 09.06.2025,*



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failing which, the Petition shall stands dismissed automatically. The above said condition is imposed by exercising powers under Section 148 of the Negotiable Instruments Act.

ii. The bonds executed by the Petitioner and his sureties before the Trial Court will be considered good and sufficient for the appeal also.

iii. The Petitioner should appear and sign before the Judicial Magistrate, FTC @ Magisterial Level, Karur, once in a month on every 1st working day at 10.30 a.m. till the disposal of the criminal appeal. Call on 10.06.2025.”

d) Thereafter, the Revision Petitioner did not comply with the said order, dated 21.04.2025, of the lower appellate court. Hence, the lower appellate court, by the impugned order, dated 23.06.2025, dismissed the Petition in Crl.MP.No.582 of 2025, seeking suspension of sentence, on the grounds that in spite of sufficient time was granted to the Revision Petitioner, the Revision Petitioner did not deposit 25% of the compensation amount, within the time stipulated as per the order, dated 21.04.2025 and that non-compliance of the condition of suspension of sentence is sufficient to declare suspension of sentence, as having been vacated. As against the said order, dated 23.06.2025, the present Criminal Revision Case has been filed by the Revision Petitioner/ accused.

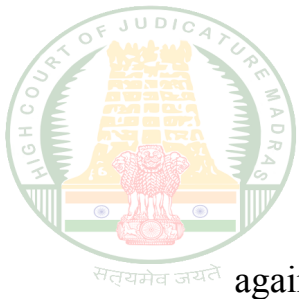
3. This court heard Mr.Kannan, the learned counsel for the Revision



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Petitioner and considered his submissions and also perused the entire materials available on record.

4. The learned counsel for the Revision Petitioner has submitted that due to financial hardship, the Revision Petitioner was not able to deposit the amount in time, as ordered by the lower appellate court and that there was no wilful disobedience of the order of the lower appellate court, on the part of the Revision Petitioner and that the impugned order was passed only on the ground of non-compliance of condition, without applying its mind to the facts and circumstances of the case. The learned counsel has further submitted that no prejudice would be caused to the Respondent, if the Revision Petitioner is permitted to deposit 25% of the amount now and hence, one more opportunity may be granted to the Revision Petitioner to deposit the said amount.
5. This is a case one under Section 138 of the Negotiable Instruments Act. In this Criminal Revision Case, the Revision Petitioner has challenged the impugned order of the lower appellate court, dismissing the Petition, seeking suspension of sentence, on the ground of non-compliance of the condition, imposed by it under Section 148 of the Negotiable Instruments Act, while granting suspension of sentence.
6. In the complaint in STC.No.597 of 2021, filed by the Respondent



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against the Revision Petitioner for recovery of a sum of Rs.11,10,000/-

being the cheque amount before the Judicial Magistrate, FTC @ Magisterial Level, Karur, the Revision Petitioner was convicted and sentenced by the Trial Court for the offence under Section 138 of the Negotiable Instruments Act to undergo one year Simple Imprisonment and also to pay a compensation of Rs.11,10,000/-, being the cheque amount, to the Respondent, in default to undergo one month Simple Imprisonment. In the appeal in CA.No.80 of 2025, filed before the lower appellate court, against the said judgement of conviction and sentence of the Trial Court, the Revision Petitioner had filed the present Petition, in CrI.MP.No.582 of 2025, seeking suspension of sentence.

7. The lower appellate court, by its order, dated 21.04.2025, had suspended the sentence till the disposal of the appeal, with a condition that the Revision Petitioner shall deposit 25% of the compensation amount to the credit of STC.No.597 of 2021, on the file of the Judicial Magistrate, FTC @ Magisterial Level, Karur, on or before 09.06.2025. There is also a condition that in case of failure of deposit of the said amount by the Revision Petitioner within time, the Petition, seeking suspension of sentence, would be deemed to be dismissed, automatically. Thereafter, the case was posted on 10.06.2025 and thereafter, the matter was



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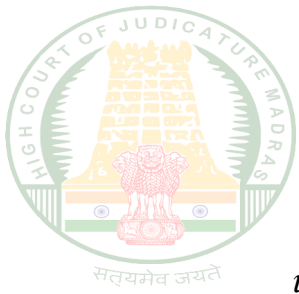
adjourned to 23.06.2025.

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8. On 23.06.2025, it was observed by the lower appellate court that in spite of time granted by this Court to the Revision Petitioner from 21.04.2025, the Revision Petitioner did not comply with the said conditional order dated, 21.04.2025, by depositing the 25% of the compensation amount. It was also observed by the lower appellate court that even on 23.06.2025, Revision Petitioner did not come forward to deposit the said amount. Thus, the period for deposit of such amount fixed by the lower appellate court, as contemplated under Section 148 of the Negotiable Instruments Act, had also expired. Hence, the lower appellate court, relying on the **judgement and order, of the Honourable Supreme Court, dated 08.01.2020, rendered in the case of Surinder Singh Deswa @ Col.S.S.Deswal Vs. Virender Gandhi in Criminal Appeal Nos.1936-1963 of 2019**, had dismissed the Petition, seeking suspension of sentence, which is challenged in this Criminal Revision Case.

9. Section 148 of the Negotiable Instruments Act reads as under:-

“148. Power of Appellate Court to order payment pending appeal against conviction:- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction



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under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.

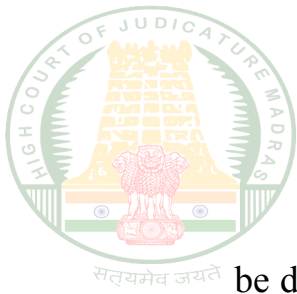
(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant."

10.As per Section 148(1) of the Negotiable Instruments Act, on an appeal by a Drawer against the conviction for the offence under Section 138 of the Negotiable Instruments Act, the appellate Court may order the appellant to deposit such sum, which shall be minimum of twenty per cent of the fine or compensation awarded by the trial Court.

11.As per Section 148(2), the amount referred to in sub-section (1) has to



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be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days, as may be directed by the Court on sufficient cause being shown by the appellant.

12.The Honourable Supreme Court, in its **judgement, dated 08.01.2020, rendered in the case of Surinder Singh Deswa @ Col.S.S.Deswal Vs. Virender Gandhi in Criminal Appeal Nos.1936-1963 of 2019,** was pleased to observe as under:-

“19. It is for the Appellate Court, who has granted suspension of sentence to take call on non-compliance and take appropriate decision. What order is to be passed by the Appellate Court in such circumstances is for the Appellate Court to consider and decide. However, non-compliance of the condition of suspension of sentence is sufficient to declare suspension of sentence, as having been vacated.”

13.When suspension of sentence was granted on a condition by the Appellate Court, non- compliance of such condition has adverse effect on the continuance of suspension of sentence. The Court, which has suspended the sentence on a condition, after noticing non-compliance of such condition, can very well hold that the suspension of sentence stands vacated due to non-compliance, as has been held by the Honourable Supreme Court in the judgement cited supra.

14.In the present case, the lower appellate court, in compliance of the



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provisions of Section 148 of the Negotiable Instruments Act, had imposed conditions for granting suspension of sentence, namely, (1) the Revision Petitioner shall deposit 25% of the compensation amount, as ordered by the Trial Court and (2) such amount shall be deposited on or before 09.06.2025 i.e. within thirty days. Admittedly, the said conditions were not complied with by the Revision Petitioner. Hence, the impugned order came to be passed, dismissing the Petition, seeking suspension of sentence.

15.The impugned order of the lower appellate court, observing that due to non-compliance of condition of deposit of 25% of the amount of the compensation within the time stipulated by it, the suspension of sentence granted by it stands vacated, is well within the jurisdiction of that Court and no error has been committed by the lower appellate court in passing the impugned order, dated 23.06.2025.

16.The Revision Petitioner herein, who is the Appellant before the lower appellate court, who having been convicted under Section 138 of the Negotiable Instruments Act, has to part with an amount of the compensation, pending the appeal, which in no way can be construed to be unfair and unreasonable or amount to taking away of his substantive right. The Revision Petitioner ought to have complied with the



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conditions of suspension of sentence in time. This Court is of the view that the impugned order, dismissing the Petition, seeking suspension of sentence on the ground of non compliance of the condition of suspension of sentence, which is sufficient to declare suspension of sentence as having vacated, is maintainable and it does not warrant any interference by this Court, as there is no force in the submissions of learned counsel for the Revision Petitioner. Further, this Court does not find any reason to interfere with the impugned order, as there is no illegality or perversity in the same.

17.In view of the above said discussions and in the light of the decision referred to above, the prayer in the present case for quashing of the impugned order dated, 23.06.2025, made in Crl.MP.No.582 of 2025 in CA.No.80 of 2025, by the Principal District and Sessions Judge, Karur, dismissing the Petition filed under Section 389(1) of Cr.PC, seeking suspension of sentence, due to non-compliance of the condition of depositing 25% of the cheque amount, cannot be granted, as there is no merit in this Criminal Revision Case filed by the Revision Petitioner.

18.In the result, this Criminal Revision Cases is **dismissed**. There is no order as to costs. The file is consigned to record. The Trial Court is directed to proceed further in accordance with law and secure the



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Revision Petitioner/ accused.

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16.10.2025

Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

Neutral Citation

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To

1. The Principal District and Sessions Judge, Karur
2. The Judicial Magistrate, FTC @ Magisterial Level, Karur
3. The Additional Public Prosecutor, Madurai Bench of the Madras High Court, Madurai.



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SHAMIM AHMED, J.

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