

CRL MP(MD) NO.1547 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04-02-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) NO.1547 of 2025

in

CRL RC(MD) NO.146 of 2025

M.Iyyappan

Petitioner

Vs

Bhagavathiappan

Respondent

For Petitioner : Mr.M.Sankar, Advocate

### ORDER

This Criminal Miscellaneous Petition has been filed seeking orders to suspend the sentence and the compensation imposed on the petitioner/sole accused by the learned District Munsif cum Judicial Magistrate, Bhoothapandy, in S.T.C.No.559 of 2015, dated 19.01.2018, which was confirmed by the learned Additional District and Sessions Judge (FTC), Nagercoil, in CrI.A.No.16 of 2018, dated 14.11.2024.

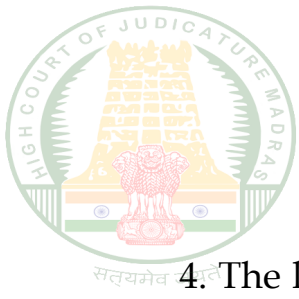
2. The case of the respondent/complainant is that the petitioner borrowed a loan of Rs.3,85,000/- from the respondent's wife on 09.04.2012 and 15.05.2012 and executed three mortgage deeds in favour of the respondent's wife and thereafter, the petitioner borrowed Rs.11,15,000/- from the respondent on 20.03.2015 and 21.05.2015, that the petitioner issued a cheque dated 10.06.2015 for Rs.15,00,000/-, that when the respondent has presented the cheque for collection on 10.06.2015, the same was



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returned with reason "Account Closed", that the respondent has then sent a legal notice dated 17.06.2015 to the petitioner demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 18.06.2015, that the petitioner, after receiving the notice, has sent a reply notice on 25.06.2015 disputing the liability and the issuance of the cheque 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 one year and also directed to pay a compensation of Rs.11,15,000/- (Rupees Eleven Lakhs and Fifteen Thousand only) under Section 357 of Cr.P.C., in default, to undergo Simple Imprisonment for a period of six months. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.16 of 2018 on the file of the learned Additional District and Sessions Court (FTC), Nagercoil. The learned Additional District and 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 petition seeking suspension of sentence.



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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.

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 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, this Criminal Miscellaneous Petition is ordered. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit 75% of the compensation amount i.e., Rs.8,36,250/- (Rupees Eight Lakhs Thirty Six Thousand Two Hundred and Fifty only) on or before 25.02.2025 to the credit of S.T.C.No.559 of 2015 on the file of the learned District Munsif cum Judicial Magistrate, Bhoothapandy, failing which the



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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 District Munsif cum Judicial Magistrate, Bhoothapandy;

(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 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. Post the matter on 26.02.2025 'for reporting compliance'.

sd/-

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



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TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC), NAGERCOIL.
- 2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, BHOOOTHAPANDY.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.

ORDER  
IN  
CRL MP(MD) No.1547 of 2025  
IN  
CRL RC(MD) No.146 of 2025  
Date :04/02/2025

RS/VR/SAR-(10.02.2025) 5P 4C  
Madurai Bench of Madras High Court is issuing  
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