



CRL RC(MD) NO.238 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26-02-2025

**CORAM
THE HONOURABLE MR JUSTICE K.MURALI SHANKAR**

**CRL MP(MD) NOs.2495 and 2496 of 2025
in
CRL RC(MD) NO.238 of 2025**

J.John

Petitioner

Vs

S.Arul Raj

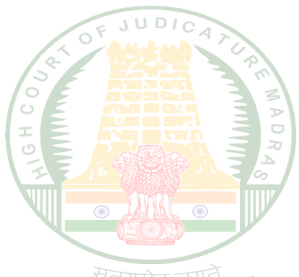
Respondent

For Petitioner :

Mr.S.C.Herold Singh, Advocate

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed (i) to suspend the sentence imposed on the petitioner/sole accused by the learned Judicial Magistrate No.II, Kuzhithurai, in S.T.C.No.995 of 2005, dated 12.02.2014, which was confirmed by the learned Additional Sessions Judge, Kuzhithurai, in Crl.A.No.6 of 2014, dated 18.11.2024 and (ii) to exempt the petitioner to surrender before the trial Court.



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2. The case of the respondent/complainant is that the petitioner borrowed a sum of Rs.4,00,000/- from the respondent on 27.03.2005 agreeing to repay the same within four months and issued a post-dated cheque dated 09.08.2005, that when the respondent has presented the cheque for collection on 09.08.2005, the same was returned with reason "Insufficient Funds", that the respondent has then sent a legal notice dated 16.08.2005 to the petitioner demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 25.08.2005, that the petitioner, after receiving the notice, has sent a reply notice on 16.09.2005 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 fine of Rs.2,000/-, 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 CrI.A.No.6 of 2014 on the file of the Additional Sessions Court, Kuzhithurai. The learned Additional Sessions Judge confirmed the



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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 paid the fine amount and that the petitioner is ready to deposit some portion of the cheque 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 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.



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7. In the result, the Criminal Miscellaneous Petition in CrI.M.P.(MD)No.2495 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 cheque amount on or before **26.03.2025** to the credit of S.T.C.No.995 of 2005 on the file of the learned Judicial Magistrate No.II, Kuzhithurai, 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 Judicial Magistrate No.II, Kuzhithurai;

(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 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.2496 of 2025 is **dismissed**.

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

sd/-
26/02/2025

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/03/2025

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

CSM

TO

1 THE ADDITIONAL SESSIONS JUDGE,
KUZHITHURAI.

2 THE JUDICIAL MAGISTRATE NO.II
KUZHITHURAI.



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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-2167[I] dated 27/02/2025)

ORDER
IN
CRL MP(MD) NOs.2495 and 2496 of 2025
in
CRL RC(MD) NO.238 of 2025
Date :26/02/2025

SS/GSV/SAR- /10/03/2025/ 6P/5C

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