



WEB COPY

CRL OP No. 8011 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 8011 of 2026

Arunachalam

..Petitioner(s)

Vs

Muthumanickam

..Respondent(s)

Prayer: This criminal original petition is filed under Section 528 of BNSS, 2023/ Section 482 of Cr.P.C., to set aside the order passed by the learned XX Additional Sessions Court at Allikulam, Chennai in M.P.No.1 of 2026 in CrI.A.No.388 of 2026 dated 17.03.2026.

For Petitioner(s): Mr.E.Kannadasan

ORDER

This Criminal Original Petition has been filed to set aside the order dated 17.03.2026 passed by the learned XX Additional Sessions Court at Allikulam, Chennai in M.P.No.1 of 2026 in CrI.A.No.388 of 2026.

Facts in brief:

2. The petitioner/accused was convicted for the offence under Section 138 of Negotiable Instruments Act, 1881, in C.C.No.3646 of 2016 on the file of the XXXVII Metropolitan Magistrate/Fast Track Court-V, Saidapet, Chennai, vide order dated 13.02.2026, sentenced to undergo simple imprisonment of 6 months



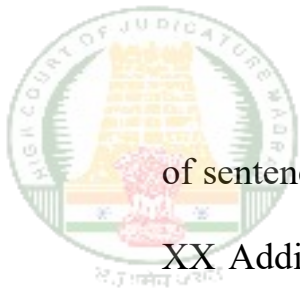
and to pay the cheque amount of Rs.65,00,000/- as compensation, in default to undergo simple imprisonment of 3 months.

WEB COPY

2.1 Aggrieved by the same, the petitioner preferred an appeal before XX Additional Sessions Court, Allikulam, Chennai in Crl.A.No.388 of 2026 along with Crl.M.P.No.1 of 2026, seeking suspension of sentence, pending disposal of the appeal and the appellate Court, vide order dated 17.03.2026, did not suspend the sentence for the reason that the petitioner has not appeared on the date of judgment before the learned trial Court. Further, the petitioner was directed to surrender before the trial Court and to move the suspension of sentence petition before the appellate Court. Accordingly, the said petition was dismissed with liberty to the petitioner to file a fresh petition after his surrender before the Magistrate concerned. Challenging the same, the petitioner has filed the present petition.

3. Heard the learned counsel for the petitioner and also perused the materials available on record.

4. Considering the submission made by the learned counsel for the petitioner and upon perusal of the materials available on record, it is seen that the petitioner's appeal has been admitted and it is not a condition precedent that suspension of sentence under Section 389(1) has to be preceded by suspension



of sentence under Section 389(3) of Cr.P.C. The direction issued by the learned XX Additional Sessions Judge, requiring the petitioner to surrender before the trial Court pursuant to the judgement is not proper. After delivery of judgment, the trial Court has become functus officio. Further, the offence is also bailable.

5. In view of the above, the learned XX Additional Sessions Judge, shall entertain the petition filed by the petitioner under Section 389(1), and the criminal appeal is likely to be listed on 18.04.2026 and shall not insist upon surrender of the petitioner before the trial Court. The learned Appellate Court shall pass orders on its own merits and in accordance with law.

6. With the above directions, this Criminal Original Petition is disposed of.

30-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

jd



To

1. XX Additional Sessions Court at Allikulam,
Chennai.

2. XXXVII Metropolitan Magistrate/Fast Tract Court-V,
Saidapet, Chennai

3. The Public Prosecutor,
Madras High Court, Chennai.



WEB COPY

CRL OP No. 8011 of 2



M.NIRMAL KUMAR, J.

jd

CRL OP No. 8011 of 2026

30-03-2026