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CRL MP No. 8367 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-05-2026

CORAM

THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

CRL MP No. 8367 of 2026

IN

CRL RC NO. 1033 OF 2026

KVA Apparels
represented by Proprietrix
Mrs.Rajashree Asokan,
No.15, West Cott Road, 1st Floor,
Gokhale Bhavan, Chennai - 14.

..Petitioner(s)

Vs

Ramesh Kumar and Co.,
Rep. by Proprietor Mukesh Bafna,
No.62, Godown Street,
Chennai - 01.

..Respondent(s)

PRAYER: This Criminal Miscellaneous Petition has been filed under Section 438 of B.N.S.S. to grant suspension of the conviction and sentence passed in Crl.A.No.89/2025 dated 25.3.2026 on the file of V Additional Sessions Judge at Chennai confirming the conviction and sentence ordered in CC.No.436 of 2020 dated 07.01.2025 on the file of Metropolitan Magistrate Fast Track Court at Magistrate Level-IV, George Town, Chennai, and enlarge the petitioner/appellant/accused on bail pending disposal of the Criminal Revision Petition.

For Petitioner(s): M/s.D.N.Dhurgasha

For Respondent(s): Mr. A. Damodaran,
Additional Public Prosecutor.

**ORDER**

This Criminal Miscellaneous Petition has been filed seeking suspension of sentence of imprisonment, imposed by the learned Metropolitan Magistrate Fast Track Court at Magistrate Level-IV, George Town, Chennai in CC.No.436/2020 by Judgment dated 07.01.2025.

2. The conviction and sentence imposed against the petitioner/appellant, vide impugned judgment are as follows:-

<i>Under Sections</i>	<i>Sentence</i>
138 of N.I. Act	Simple imprisonment for 9 months and as per Section 357 of Cr. P.C., compensation of Rs.8,98,605/- along with 3% per annum for the said cheque amount from the date of dishonour of case cheque to till date and directed the accused to pay the said compensation amount to the complainant within one month from this date and in default of payment of said compensation, to undergo two months simple imprisonment.

2. The instant petition has been filed to suspend the sentence imposed on the petitioner pending disposal of the above revision.

3. The case of the prosecution is that the accused has purchased apparels from the complainant against invoices bills on various dates and the outstanding amount for a sum of Rs.8,98,605/- was not paid by the accused to the



complainant. On repeated demands made by the complainant, the accused has issued three cheque nos.102860, 102862, 102863 datd 26.09.2019 for a sum of Rs.1,45,003/-, Rs.4,04,760/- ad Rs.3,48,842/- in Central Bank of India, chennai to the complainant for the said liability. When the said cheques was presented for collection in his banker City Union Bank, George Town, Chennai and the same was returned as 'insufficient funds' and on 01.10.2019, the complainant has issued notice to the accused to call upon the accused to repay the said cheques amount to the complaint within 15 days as per Section 138 of N.I. Act. Though the said notice was received by the accused on 03.10.2019 and acknowledged by him, the accused has not repaid the cheque amount to the complainant. Hence the case.

4. The learned counsel for the petitioner would submit that the conviction and sentence passed by the Courts is against law, weight of evidence and all probabilities of the case, that the alleged cheques were not given voluntarily for discharge of any legally enforceable debt and the conviction and sentence are erroneous, illegal and against law. He further submitted that 10% of the compensation amount has already been paid. Hence, he prayed to suspend the sentence imposed on the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the trial Court, after taking into consideration the oral and



documentary evidence produced by the prosecution, rightly found the petitioner/appellant guilty and convicted and sentenced him, as stated above.

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6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

7. Having regard to the submission made by the learned counsel for the petitioner that there are substantial grounds raised in the above revision which require consideration, this Court is inclined to grant suspension of sentence and exempt the petitioner from surrendering before the Trial Court, subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Metropolitan Magistrate Fast Track Court at Magistrate Level-IV, George Town, Chennai;

(ii) The petitioner and 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 and mobile numbers to ensure their identity; and

(iii) The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal 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 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, this Criminal Miscellaneous Petition is ordered.

06-05-2026
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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MJS

Note:

1. Registry is directed to forthwith upload this order in the Official Website of this Court.
2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To

1. The V Additional Sessions Judge at Chennai.
2. The Metropolitan Magistrate Fast Track Court at Magistrate Level-IV, George Town, Chennai.
3. The Public Prosecutor, High Court of Madras.



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L.VICTORIA GOWRI, J.

MJS / VEDA

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