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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL MP No. 19839 of 2026
IN
CRL RC NO. 2393 OF 2026

Mahaboobi @ Mahaboo
W/o Jaffer Sahib,
No.26, 2nd Main Road,
Gopalapuram,
Chennai.

..Petitioner(s)

Vs

J.Krishnapillai
S/o Jayasankara Pillai,
Ammaiyappan Garments Factory,
Chennai By-Pass Road,
Tiruttani Town and Post,
Tiruvallur District.

..Respondent(s)

Prayer: To Suspend the sentence of the petitioner in STC No. 02 of 2018 on the file of the Learned Judicial Magistrate, Tiruttani by its judgement dated 14-7-2023 which was confirmed by the Learned I Additional District and Sessions Judge, Tiruvallur in Crl A.No.189 of 2023 by its judgment dated 14-8-2026, till the disposal of the Criminal Revision Petition in Crl RC No.2393 of 2026 and pass further order/s as this Honorable Court.

For Petitioner(s): Mr.S.R.Karthikeyan

For Respondent(s): Ms.V.Kaaviya

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ORDER

This Criminal Miscellaneous Petition has been filed by the Revision Petitioner, seeking suspension of the sentence imposed on her in Crl.A.No.189 of 2023, dated 14.08.2026, by the learned I Additional District and Sessions Judge, Tiruvallur, confirming the judgment of conviction and sentence dated 14.07.2023 passed in S.T.C.No.02 of 2018 by the learned Judicial Magistrate, Tiruttani, pending disposal of the present Criminal Revision Petition.

2.By the judgment of conviction and sentence passed by the Trial Court, which was subsequently confirmed by the Lower Appellate Court, the Revision Petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo ten months' simple imprisonment and to pay compensation of ₹3,00,000/- (Rupees Three Lakhs only) to the respondent/complainant. It is submitted that the petitioner is presently not in jail and that she was on bail during the trial and the subsequent appellate proceedings.

3.Challenging the judgments of conviction and sentence passed by the Courts below, the Revision Petitioner has filed the above Criminal Revision Petition along with the present Criminal Miscellaneous Petition, seeking suspension of sentence and exemption from surrendering before the Appellate Court and the Trial Court, pending disposal of the Criminal Revision Petition.

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4.The learned counsel appearing for the Revision Petitioner submitted that the order passed by this Court dated 15.10.2026 has been duly complied with. He further submitted that the total cheque amount involved in the case is ₹3,00,000/- (Rupees Three Lakhs only) and that the petitioner had already deposited 20% of the cheque amount before the learned Trial Court. Pursuant to the direction issued by this Court on 15.10.2026, the petitioner had deposited an additional 30% of the cheque amount, namely, ₹90,000/- (Rupees Ninety Thousand only), before the learned Trial Court on 21.10.2026. The learned counsel produced the deposit receipt before this Court, which is taken on record. Thus, the petitioner has deposited a total sum of ₹1,50,000/-, representing 50% of the cheque amount, before the learned Trial Court. In view of the compliance with the order passed by this Court, the learned counsel prayed that the petitioner's application seeking suspension of sentence may be considered favourably.

5.This Court heard Mr. S.R. Karthikeyan, learned counsel appearing for the Revision Petitioner and the learned counsel for the respondent Ms.V.Kaaviya, and considered his submissions and also perused the materials placed before this Court.

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6.The brief facts leading to the filing of the present Revision Petition are that the respondent/complainant initiated proceedings against the petitioner under Section 138 of the Negotiable Instruments Act, 1881, alleging that the petitioner had borrowed a sum of ₹3,00,000/- from him on 11.07.2017 and had issued a post-dated cheque dated 11.08.2017 towards discharge of the said liability. According to the complainant, when the cheque was presented for collection, it was returned unpaid on 18.08.2017 with the endorsement "Insufficient Funds". Thereafter, a statutory notice dated 01.09.2017 was issued to the petitioner. Since the cheque amount was not paid, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act. After considering the oral and documentary evidence, the learned Trial Court convicted the petitioner and sentenced her to undergo ten months' simple imprisonment and to pay compensation of ₹3,00,000/-. The said conviction and sentence were subsequently confirmed by the learned Appellate Court.

7.Before this Court, the learned counsel for the Revision Petitioner contended that the Courts below failed to properly appreciate the specific defence of the petitioner that she had not signed or issued the cheque in question. It was submitted that, despite the specific denial of her signature, the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act was invoked in favour of the complainant and the burden was improperly shifted upon the petitioner. The learned counsel further submitted

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that the complainant had categorically admitted in his deposition dated 07.01.2021 that it was the petitioner's husband who had approached him for a loan of ₹3,00,000/-. It was also pointed out that, during his further cross-examination dated 01.08.2022, the complainant admitted that he had no direct money transaction with the petitioner and that it was her husband who had handed over the cheque to him. According to the petitioner, the complainant had also admitted that the petitioner had no liability or responsibility towards the loan allegedly borrowed by her husband. It was further contended that the complainant had admitted filing a police complaint against the petitioner's husband in connection with the said cash transaction.

8.The learned counsel for the Revision Petitioner further submitted that the complainant had not produced any independent documentary evidence or witness to establish the alleged cash transaction and had also failed to establish his financial capacity and source of funds to advance such a substantial amount. It was further contended that the complainant had admitted that the cheque contained only the amount and signature, while the remaining particulars had not been filled in by him, and that he was unable to state who had filled in the other particulars. The learned counsel also relied upon the complainant's admission regarding the complaint lodged by the petitioner before the Pattabiram Police Station on 18.08.2017 concerning her missing cheque and its alleged misuse. It was therefore argued that the cheque might have been taken

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by the petitioner's husband without her knowledge or consent and subsequently misused, and that the Courts below failed to properly consider these material admissions and the defence raised by the petitioner. The learned counsel further submitted that the petitioner could not appear before the Appellate Court at the time of pronouncement of judgment owing to her ill-health and that she is presently not in custody. It was therefore prayed that the sentence may be suspended and the petitioner may be exempted from surrendering pending disposal of the Revision Petition.

9.The learned counsel appearing for the Revision Petitioner has further assured this Court that the petitioner is ready and willing to cooperate with the proceedings and shall make herself available before the Court whenever required. The petitioner also undertakes that she will not misuse the liberty granted to her and will cooperate with the expeditious disposal of the main Criminal Revision Petition.

10.The learned counsel appearing for the respondent/complainant opposed the request of the petitioner and submitted that the judgments of the Courts below were passed after considering the oral and documentary evidence available on record. It was further contended that the petitioner had not made out sufficient grounds for granting the relief sought for and that the findings recorded by the Courts below do not warrant interference at this stage.

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Considering the submissions made by the learned counsel appearing for the Revision Petitioner and upon perusal of the materials placed before this Court, this Court is of the prima facie view that certain arguable issues arise for consideration in the present Revision Petition. In particular, the specific denial of the signature on the cheque, the complainant's admissions regarding the alleged loan transaction being initiated by the petitioner's husband, the absence of a direct financial transaction between the petitioner and the complainant as asserted by the defence, and the alleged complaint concerning the missing cheque are matters which require closer scrutiny at the time of final hearing. Though the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act operate in favour of the holder of the cheque, the accused is entitled to rebut such presumptions in the manner known to law. Whether the petitioner has successfully raised a probable defence and whether the Courts below properly appreciated the relevant admissions and evidence are matters to be examined in detail in the main Revision Petition.

11.This Court is also conscious of the fact that the Revision Petitioner has been sentenced to undergo ten months' simple imprisonment and that the main Criminal Revision Petition may take considerable time to be taken up for final disposal. The petitioner is presently not in jail and has complied with the direction issued by this Court on 15.10.2026 by depositing an additional 30% of

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the cheque amount, over and above the 20% already deposited before the Trial Court. Thus, the petitioner has deposited a total sum of ₹1,50,000/-, representing 50% of the cheque amount of ₹3,00,000/-. The deposit receipt evidencing such compliance has also been produced before this Court and taken on record. In such circumstances, considering the compliance made by the petitioner, the arguable grounds raised in the Revision Petition and the fact that the petitioner is not presently in custody, this Court is of the considered view that her personal liberty deserves to be protected during the pendency of the Revision Petition. The principle laid down by the Hon'ble Supreme Court in ***Rabi Prakash v. State of Odisha, reported in 2023 LiveLaw (SC) 533***, concerning the consideration of suspension of sentence and bail pending appeal or revision, is also relevant. Therefore, this Court is inclined to grant the relief of suspension of sentence, subject to appropriate conditions.

12.Accordingly, pending disposal of the main Criminal Revision Case, the sentence imposed on the Revision Petitioner is suspended and she is granted bail, subject to the following conditions:

i. The Revision Petitioner shall surrender before the learned Judicial Magistrate, Tiruttani, within a period of three weeks from the date of receipt of a copy of this order. On such surrender, the Revision Petitioner shall be released on bail upon executing a personal bond for a sum of ₹15,000/- (Rupees Fifteen Thousand

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only) with two sureties, each for a like sum, to the satisfaction of the learned Judicial Magistrate, Tiruttani, subject to furnishing a written undertaking that she will fully cooperate in the hearing and disposal of the main Criminal Revision Petition.

ii. The Revision Petitioner and her respective sureties shall affix their latest photographs and Left Thumb Impressions (LTI) in the bail bonds. The Court below may obtain copies of their Aadhaar Cards or Bank Passbooks for the purpose of establishing their identity.

iii. The Revision Petitioner shall appear before the learned Judicial Magistrate, Tiruttani, once in every month, on the 3rd day of every calendar month, at 10.30 a.m., commencing from the month of December of 2026, until further orders of this Court.

v. Upon formal acceptance of the bail bonds and sureties, the Trial Court shall immediately transmit legible photostat copies thereof to the Registry of this Court to be kept along with the records of the present Criminal Revision Petition.

13.With the above directions, this Criminal Miscellaneous Petition stands ordered and **allowed**.

24-11-2026

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

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SHAMIM AHMED, J.

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To

1.The Judicial Magistrate, Tiruttani.

2.The I Additional District and Sessions Judge, Tiruvallur.

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