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Crl.M.P.No.49 of 2026
in Crl.R.C.No.12 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2026

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THE HONOURABLE MR JUSTICE SUNDER MOHAN

Crl.M.P.No.49 of 2026
in
Crl.R.C.No.12 of 2026

S.Moorthi Raja

...Petitioner

-vs-

M.Shenbagaraj

...Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 438(1) r/w 528 of BNSS Act, praying to suspend the execution of sentence imposed on the petitioner in XXV Metropolitan Magistrate, Egmore, in C.C.No.6849 of 2017 dated 21.09.2024 and subsequent Appeal in XVII Additional Judge, Chennai in C.A.No.783 of 2024 dated 10.09.2025 pending disposal of the above Criminal Revision Case.

For Petitioner : Mr.R.Ganesan

ORDER

The petitioner has preferred the above revision challenging the judgment passed by the learned XVII Additional Judge, Chennai in



C.A.No.783 of 2024 dated 10.09.2025, confirming the judgment of the learned XXV Metropolitan Magistrate, Egmore, in C.C.No.6849 of 2017 dated 21.09.2024, convicting the petitioner for the offence under Section 138 of the Negotiable Instruments Act, and sentenced him to undergo six months Simple Imprisonment and to pay the cheque amount of Rs.8,55,000/- as compensation to the complainant, in default, to undergo further Simple Imprisonment for 1 ½ month. The instant petition has been filed to suspend the sentence imposed on the petitioner.

2. It is the case of the respondent that the petitioner had issued a cheque for a sum of Rs.8,55,000/- towards discharge of liability; that when the said cheque was presented for collection, it was returned for the reason ‘Stop Payment by the Drawer’; that in spite of the legal notice, the petitioner did not make the payment; and hence liable for the said offence.

3. The learned counsel for the petitioner would submit that the petitioner has raised substantial grounds in the above revision; that the petitioner has rebutted the statutory presumption; that the judgment of the



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Courts below are liable to be set aside; and that, to show his bona fides, the petitioner is willing to deposit 20% of the cheque amount.

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

5. 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, and the fact that the petitioner is willing to deposit 20% of the cheque amount, this Court is inclined to suspend the sentence imposed on the petitioner, subject to the following conditions:

(i) The petitioner/Accused shall deposit 20% of the cheque amount to the credit of C.C.No.6849 of 2017 on the file of the learned XXV Metropolitan Magistrate, Egmore, within a period of four weeks from the date of receipt of a copy of this order;

(ii) On such deposit being made, the Trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter



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periodically. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case;

(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioner/Accused shall be suspended, on his executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned XXV Metropolitan Magistrate, Egmore;

(iv) 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;

(v) 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 revision 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; and

(vi) On the failure of the petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the petitioner/accused into custody for undergoing the sentence.



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6. Accordingly, this Criminal Miscellaneous Petition is ordered.

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To

- 1.The XXV Metropolitan Magistrate, Egmore.
- 2.The XVII Additional Judge, Chennai.



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SUNDER MOHAN, J.

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