

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA
Present: Sri. K.K.Balakrishnan, Sessions Judge
Wednesday the 2nd day of April, 2025
Crl. M.P. No.528/2025 in Crl. Appeal No.54/2025

Between:-

G.K.Madhusoodanan, Aged 57 years,
S/o Gopalakrishna Kartha, Pattathilpadickaparambu,
Kadakkappally Panchayath, Ward 7, Kadakkappally
P.O, Cherthala, Alappuzha

} Petitioner/Appellant

AND

D.Vijayan, Aged 54 years, S/o Damodaran,
Bhagavathiveli, Vishnu Bhavan, Kadakkappally
Panchayath, Ward 9, Kadakkappally P.O,
Cherthala, Alappuzha

} Respondent/
Complainants

Petition filed under Section 430 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the petitioner, who is the appellant in the above matter, to suspend the execution of the sentence passed against him on 15.02.2025 in S.T.No.135/2019 on the file of the Court of Judicial Magistrate of First Class-IV, Cherthala.

Petition was presented on : 17.03.2025

This petition coming on 02.04.2025 for hearing before me in the presence of Sri.V.S.Rajan, Advocate for petitioner; Public Prosecutor for the Respondent (State); the Court passed the following:-

ORDER

This petition is filed under Section 430 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the petitioner, who is the appellant in the above matter, to suspend the execution of the sentence passed against him on 15.02.2025 in S.T.No.135/2019 on the file of the Court of Judicial Magistrate of First Class-IV, Cherthala.

2. The petitioner contended that the trial court found him guilty of the offence punishable under Section 138 of Negotiable Instruments Act and by the judgment dated 15.02.2015 convicted him for the said offence and sentenced to pay a fine of ₹1,08,040/- and in default of payment of fine, he has to undergo simple imprisonment for a period of three months. If the amount is realised, it shall be given to the complainant as compensation u/s.357 (1) of CrPC. The petitioner further submitted that the judgment of the trial court is not maintainable either in law or on facts. The trial court failed to appreciate the evidence in the light of law. There are valid grounds to allow the appeal. Unless the order of the trial court is not suspended till the disposal of the appeal, the petitioner would be put to untold hardships and irreparable loss. Hence, the petition is filed to stay the execution of the sentence.

3. Heard the petitioner.

4. The learned counsel for the petitioner submitted the petitioner's inability to deposit 20% of the fine amount imposed by the trial court and expressed his willingness to deposit ₹10,000/- to admit the appeal and to suspend execution of sentence passed by the trial court, but sought one month time. The learned counsel further submitted that the petitioner cannot raise 20% of the fine amount and sought for relaxation from the condition u/s.148 (1) of NI Act. As the petitioner voluntarily ready to deposit ₹10,000/- in the trial court to admit the appeal and considering the submission of the learned counsel, I am of the view that above condition is to be relaxed to the extent of ₹10,000/-. Considering the submission of

the learned counsel, there are sufficient reasons to suspend execution of sentence passed against the petitioner by the trial court. So, execution of sentence passed by the trial court is suspended till the disposal of the appeal with the condition that he has to deposit ₹10,000/- in the trial court in compliance of S.148 (1) of NI Act.

5. Hence, the petition is allowed and execution of sentence passed by the trial court is suspended till the disposal of the appeal with the following conditions;

- (i) The petitioner shall deposit ₹10,000/- (Rupees Ten Thousand only) before the trial court on or before 02.05.2025.
- (ii) The petitioner shall be released on bail, on his executing bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court.

In the event of non compliance of the conditions, the petition shall be treated as dismissed.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 2nd day of April, 2025.

Sd/-
SESSIONS JUDGE
ALAPPUZHA