

IN THE COURT OF THE ADDL. DISTRICT AND SESSIONS JUDGE,
MUVATTUPUZHA

Present:

SRI. HARIKUMAR K.N ADDL. DISTRICT AND SESSIONS JUDGE.

Thursday 6th day of November,2025/ 15th Karthika, 1947.

CRIMINAL M.P. 419/2025
in
CrI.A. No.500/2025

(Against the judgment dated 08.08.2025 in
CC No.237/2021 received on 10.08.2025 on the file of Judicial First
Class Magistrate Court-III, Muvattupuzha)

Petitioners/Appellant/Accused:-

Sreekumari aged 43 years W/o George, Nayin House, Poovar
P. O, Pathanavila, Thirupuram Desam, Poovar Village,
Thiruvananthapuram District.

By Advs. Bertrand Basil, Jithin Varghese, Joy Kuriakose & S.
Justus.

Respondents/Respondents State & Complainant:-

- 1 Baby John, aged 63 years, S/o John, Vadakkepunnammattam
Kara, Kadavoor Village, Kothamangalam Taluk.
- 2 State of Kerala represented by Public Prosecutor, District and
Sessions Court, Ernakulam, Pin-682011.

R1 : No Vakalath.

R2 : By Adv. Sri. K.S. Jyothikumar, Addl. Public Prosecutor,
Muvattupuzha.

This petition filed under section 430 of BNSS, 2023 is
coming on for hearing on 03.11.2025 and on the 6th day of
November, 2025 the Court passed the following.

ORDER

This is a petition filed by the appellant for suspending the execution of the sentence passed against him in CC No. 237/2021 of the Judicial Magistrate of the First Class-III, Muvattupuzha under Section 430 of the BNSS 2023.

2. Along with the above petition, the petitioner has filed Criminal MP No. 420/2025 also for waiving the deposit of compensation at the time of suspension of the sentence under Section 148 of the Negotiable Instruments Act. As per the order dated 03.09.2025, this Court had dismissed Criminal MP No. 420/25 and allowed Criminal MP No. 419 / 2025 by suspending execution of the sentence on condition that the petitioner shall execute bond for ₹ 1,00,000 with two solvent sureties each for the like sum to the satisfaction of the trial Court and on further condition that the petitioner/accused shall deposit 20% of the fine or compensation awarded by the trial Court before that Court within 60 days as provided under Section 148 (1) and (2) of the Negotiable Instruments Act. The petitioner filed CrI MC No. 8917 of 2025 before the Hon'ble High Court. As per the Order dated 13.10.2025 the Hon'ble High Court observed that the orders passed

by this Court do not satisfy the requirements for furnishing reasons as held in the judgment Sreenivasan.P. v. Baburaj (2024 (2) KHC 621).The Hon'ble High Court was pleased to allow the CrI MC as follows:- "In the result, the CrI MC is allowed. Annexure A5 order is quashed. Annexure A4 order, to the extent it requires the petitioner to deposit 20% of the fine amount, is also quashed. The appellate Court is at liberty to pass a fresh reasoned order on CrI MP No. 419 of 2025 in Criminal Appeal No. 500 of 2025. "It is in the above circumstances the petition again came for hearing.

3. Heard the learned counsel for the petitioner and perused the records.

4. Learned counsel for the petitioner submitted that the petitioner is a lady. who is facing severe financial issues and she is self-employed. The counsel submitted that the petitioner had no substantial income and that unless this Court waived the deposit of amount of compensation at the time of execution of the sentence, the petitioner and her family will be subjected to unbearable hardships and injury. The counsel further submitted that the order of conviction and sentence passed by the trial Court is unsustainable for various

valid grounds detailed in the memorandum of appeal.

The counsel submitted that the trial Court failed to consider the defence case that the accused had handed over five blank signed cheques and a blank stamp paper as security in connection with a gold business partnership involving her friend Smt. Bindu, in which the complainant was also involved. According to the counsel, the trial Court ought to have found that the cheque was not supported by any consideration.

5. It is seen from the judgment of the learned Magistrate that the Sentence passed is to undergo simple imprisonment for 6 months and to pay ₹ 1,08,80,000/- as fine with direction for default imprisonment for further period of 6 months. As per the judgment, on payment of the fine amount, the same shall be paid to the complainant as compensation. The contention of the petitioner is that the petitioner, being a self-employed lady, has no sufficient means to raise big amount to deposit as a condition precedent for suspension of the sentence. This Court has taken notice of the fact that the fine amount involved in the case is considerably big amount. 20% of the said amount also may not be affordable by a person without substantial income. Presently there is no material to see that the

petitioner is having any sufficient means to raise that much money. If a condition is imposed to deposit 20% of the above fine amount, virtually it may defeat the right of the petitioner to effectively challenge the conviction and sentence in the appeal. Therefore, In the facts and circumstances of this case, a direction for deposit of 20% of the fine amount by the petitioner may cause irreparable hardship to the petitioner. Therefore, the request of the petitioner for waiver of the requirement for deposit of the amount can be allowed, to meet the ends of justice.

6. Compelling the petitioner to deposit a huge amount as a condition to suspend the sentence may amount to a direction to perform an impossible act for the reason that the petitioner states that she has no sufficient income or means of income to raise that much amount. In the facts and circumstances of this case, a direction to deposit the amount may defeat the right of the petitioner to appeal. For that reason, this Court is satisfied that the discretion can be exercised by exempting the petitioner from the requirement of deposit of 20% of the fine amount.

7. In the above circumstances, the petition is allowed as follows :-Execution of the sentence passed

by the Judicial Magistrate of the First Class III Muvattupuzha in CC No. 237/2021 stand suspended and bail granted to the petitioner/accused on condition that the petitioner/accused shall execute bond for ₹ 1,00,000/- with two solvent sureties each for the like sum to the satisfaction of the trial Court.

(Dictated by me to the dictation software AI Adalath, corrected by me and pronounced in open Court on this the 6th day of November, 2025).

Sd/-
HARIKUMAR K.N
ADDL. DISTRICT AND SESSIONS JUDGE.

Appendix : Nil

Id/-
ADDL. DISTRICT AND SESSIONS JUDGE.

CMP 419/25 in CrI.A.500/2025
Revised Order
Dated: 06.11.2025.