

**IN THE COURT OF THE SESSIONS DIVISION, PALAKKAD**  
Present:- Smt.Sujayamma. V.B, M.Sc.LL.B, Addl. Sessions Judge -III

Saturday, the 2<sup>nd</sup> day of August, 2025  
(11<sup>th</sup> day of Sravana, 1947 S.E.)

**Criminal Miscellaneous Petition No.4078/2025**  
in Crl. Appeal No.95/2025

**Petitioner/Accused**

Venkidakrishnan, aged 35 years, S/o. Nagarajan, Venkiteswara Builders Planning and Supervisors, Chunnambuthara, Palakkad.

**Vs.**

**Respondent/Complainant:**

1. Basha. H., aged 30 years, S/o. P. Hamza, Sankuvamedu Veedu, Kalpathy P.O., Palakkad.
2. State rep. by Public Prosecutor, Palakkad.

This application coming on this day for orders, upon perusing the petition and after hearing Sri. A.V. Arun and Sri.S.M. Abuthahir, Advocates for the petitioner and the learned Addl. Public Prosecutor on behalf of the State, this court passed the following:-

**ORDER**

This application is filed to relax the condition for suspending the sentence.

2. The petitioner is the appellant in Criminal Appeal no.95/2025. The above appeal is filed challenging the conviction as per judgment dated 2-05-2025 in CC 389/2018 of the Judicial First Class Magistrate Court No.II, Palakkad where by he is sentenced to undergo imprisonment till rising of the court and to pay fine of ₹2,30,000/-. Since the petitioner suffers heavy business loss and financial crisis and his father-in-law passed away just before a

week, he prays that the condition to deposit 15% of the fine amount may be relaxed.

3. Respondent no.1 did not appear. So, heard the learned counsel and the Addl. Public Prosecutor.

4. As per the above judgement the trial court sentenced the accused to undergo imprisonment till rising of the court and to pay fine amount of ₹2,30,000/-. On going through the judgement it is seen that the impugned check amount is ₹1,42,000/-.

5. In **Ambili Vs. Sree Gokulam Chit and Finance Company (P) Ltd. 2020 (1) KLT 275**, the Hon'ble High Court of Kerala following the decision of the Hon'ble Supreme Court in **Surinder Singh Deswal v. Virender Gandhi AIR 2019 SC 2956** held that exercise of the power under Section 148 of the NI Act is the rule and non-exercise of such power is the exception. In **Surinder Singh Deswal (supra)** itself, the Apex Court has indicated that a direction to deposit 20% of the amount of compensation can be dispensed with by the appellate court under exceptional circumstances on assigning special reasons. But, it does not mean that, when the appellate court makes a direction to deposit the amount, it has to record reasons for doing so. It is when the appellate court does not make a direction under Section 148 of the Act for deposit of the amount that it has to assign

special reasons. In fact, exercise of the power under Section 148 of the Act is the rule and non-exercise of such power is the exception.

6. Here, in the present case the Sessions Court while suspending the sentence held that this is not an exceptional case without imposing the condition of deposit of the fine amount. 15% of the fine amount is directed to be deposited as condition to suspend the sentence within 60 days of the date of order i.e., from 3-06-2025. Since the opportunity of the petitioner to contest the appeal on merit cannot be deprived. So, I am of the opinion that 30 days more time can be given to the petitioner to comply with the direction of the Sessions Court. The petition is allowed relaxing the appeal condition.

7. In the result, the petition is allowed in part as follows :-

The time period to deposit 15% of the fine amount before the trial court is extended for further period of 30 days from today.

Dictated to the Confidential Assistant, transcribed and typed by him, revised and corrected by me and pronounced in open court, on this the 2<sup>nd</sup> day of August, 2025.

**Sd/-**  
**Sujayamma. V.B**  
**Addl. Sessions Judge-III**

*Typed by : Vinod*  
*Compared by : Suresh*

**Fair / Copy of Order in  
CrI.MP No.4078/2025  
Dated : 2-08-2025.**