

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU

Present: Thiru.A.Saravanakumar.,B.A.B.L.,
Additional District Judge,
Chengalpattu.

Wednesday, the 15th day of April 2026

CrI.M.P.No.447/2026

in

CrI.M.P.No.3231/2025

in

CA.No.114/2025

CNR.No:TNCG01-000879-2026

K.Ganesh

...Petitioner/Respondent

-Vs.-

V.C.Thangamagan

...Respondent/Appellant

This Petition coming before this court on 10.4.2026 for final hearing in the presence of Mr.Digvijayapandian, counsel for the Petitioner and S.Chokkalingam, Counsel for the Respondents and upon hearing the arguments of both sides and perusing the material records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

This petition is filed under section 148 of N.I.Act to release the amount of 20% of the compensation ie.,Rs.4,20,000/- from the Judicial Magistrate, Fast Track Court (at Magistrate Level), Alandur.

2. The Petition averments in brief as follows:-

(i) The petitioner filed the complaint in C.C.No.1 of 2022, u/s 138 of the N.I. Act against the Respondent/Appellant and sought compensation. After a contest by both parties before the Learned Judicial Magistrate, Fast Track Court (at Magistrate Level) Alandur, all the ingredients of Section 138 N.I. Act were duly proved. The learned Magistrate allowed the complaint, convicted the respondent, sentenced him to simple imprisonment for six months, and directed payment of compensation of Rs. 21,00,000/- with interest at 9% per annum towards the monetary loss suffered by the petitioner.

(ii) The respondent has preferred the above appeal before this court along with a petition under Section 430(1) of the BNSS Act, 2023 seeking suspension of sentence against the judgment in C.C. No. 1 of 2022. Upon hearing the appellant, this court was pleased to suspend the sentence of imprisonment alone pending disposal of the appeal, subject to the condition that the respondent shall deposit 20% of the compensation amount, i.e., Rs. 4,20,000/- within 30 days. The respondent was also directed to appear before this court on 17.11.2025 with the production of the receipt for the deposit.

(iii) On 04.03.2025, while attending the proceedings in C.C. No. 1 of 2022 before the Learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, the petitioner suffered a major heart attack and given first aid and immediately admitted to Apollo Hospital, Thousand Lights,

Chennai, and underwent coronary artery graft surgery on 07.03.2025, incurring heavy medical expenses and presently under severe financial hardship. The petitioner came to know that the respondent deposited 20% of the compensation amount, i.e., Rs. 4,20,000/-, before the trial Court on 25.10.2025 and filed a memo with challan proof of the same.

(iv) The petitioner have also obtained a loan of Rs. 7,78,000/- from his retirement disbursement at SBI, Adyar Branch, Chennai, repayable in 60 EMIs of Rs. 17,054/- per month for 60 EMIs, the documents were marked as Exhibits P32 and P33. The petitioner living in a rented house with his wife and his two daughters are married. Due to financial strain and medical condition, he is facing severe hardship and mental agony which forced him to borrow money from a third party. The said deposit is required to settle the third-party loan.

(v) It is just and necessary to meet the above financial difficulty and manage medical expenses due to their old age and absence of any other male member in the family. Therefore, the petitioner filing this petition to release the amount deposited by the appellant before the Trial Court. Otherwise, I will be put to irreparable loss and hardship. Hence the petition.

3.The averments in the counter filed by Respondent/Appellant in brief as follows:-

(i) The Criminal Miscellaneous Petition filed by the petitioner under section 148(3) of the Negotiable amount is not maintainable either in

law or on facts and is liable to be dismissed. This Court, while suspending the sentence in C.A. No. 114 of 2025, directed deposit of 20% of the compensation amount as a condition for suspension of sentence. The said deposit was made only in compliance with the conditional order of this court and not as an admission of liability.

(ii) The appeal filed by this respondent challenging the conviction and sentence in C.C. No.1 of 2022 is pending adjudication before this court. Until the disposal of the appeal, the conviction has not attained finality. Therefore, premature release of the deposited amount would cause serious prejudice to this respondent. Section 148 of the Negotiable Instruments Act does not confer an automatic right upon the complainant to withdraw the amount during the pendency of the appeal. The provision is discretionary and subject to judicial consideration. The petitioner has not made out any exceptional or compelling grounds warranting release of the amount.

(iii) The averments made by the petitioner regarding alleged financial hardship, medical expenses and personal difficulties are denied as false, exaggerated and created only for the purpose of obtaining release of the amount. If the amount is released now and if the appeal is ultimately allowed in his favour, recovery of the amount from the petitioner would become difficult and result in irreparable loss and hardship to him. Hence, the amount deposited should be retained in court till final disposal of the appeal. The petition has been filed with an intention to defeat the very

purpose of the appeal proceedings and to cause undue hardship to this respondent. Hence, the petitioner is not entitled to the relief sought for.

Upon the perusal of the petition, counter and other materials this court has framed the following point for consideration:

“Whether the petition is to be allowed or not”

4. Answer to the point:

This is an application u/s.148 of N.I.Act to release the amount of 20% of compensation of Rs.4,20,000/- from the learned Judicial Magistrate, Fast Track Court, Alandur.

5. The petitioner contends that the respondent has preferred appeal before this court as against the judgment passed in C.C.No.1/2022 and while suspending the sentence, this court directed the respondent to pay 20% of the compensation amount. Accordingly, the respondent deposited a sum of Rs.4,20,000/- before the trial court. While so, the petitioner contends that the above sum may be released in his favour and she may be permitted to withdraw the same. The respondent has filed a counter denying the allegations stated in the petition and it is his submission that if the amount is released in favour of the petitioner, it is difficult to recover the amount from the petitioner. Therefore, the petition may be dismissed.

6. This court has considered the submissions of the respective sides. A careful perusal of the case records would reveal that the respondent has been convicted and directed to pay a sum of Rs.20,00,000/- as compensation to the petitioner by the learned Judicial Magistrate, Fast Track Court (at Magistrate level), Alandur. As against the said judgment of conviction, the respondent has preferred an appeal and it is numbered as C.A.No.114/2025. Along with the appeal, the respondent filed a petition for suspension of sentence in CrI.M.P.No.3231/2025 wherein, this court has

directed the respondent to deposit 20% of the compensation amount while suspending the sentence. Accordingly, the respondent has deposited the said sum before the learned Judicial Magistrate and thereby complied the conditions imposed by this appellate court.

7. While things stand thus, now the petitioner contends that he may be permitted to withdraw the 20% of the amount namely Rs.4,20,000/- which has been deposited into the trial court on 25.10.2025. The only objection raised by the respondent is that if the petition is allowed, it would be difficult to recover the amount. The Hon'ble High Court of Madras in the case of **P.Venkatachalapathy ..Vs.. Sri Yoga Traders** CrI.O.P.No.10690/2019 pronounced on 27.06.2019 has categorically held at para 14 as follows:

“On plain reading of the said section it indicates that it is the appellate court which has got power to order for release of such amount which has been deposited by the accused”.

8. Therefore, it is clear that this appellate court has got alone power to release the amount. Moreover, a plain reading of Section 148 of N.I.Act would go to show that if the 20% of compensation amount is deposited within 60 days from the date of passing of order by this court, it may direct to release the amount in deposit made by the accused to the complainant during the pendency of the matter. The proviso to section 138 of N.I.Act says that while releasing such amount, the complainant must be directed to repay the said amount in the event of acquittal of the accused with interest at the bank rate which was prevailing during the said period.

9. Having regard to the provisions of section 148 of the Negotiable Instrument Act and the facts and circumstances of this case, this court is inclined to allow the application.

10. In the result, the petition is allowed. The petitioner/complainant is hereby permitted to get the 20% of compensation of Rs.4,20,000/-

deposited into the learned Judicial Magistrate, Fast Track Court (at Magistrate Level) at Alandur and accordingly, the learned Judicial Magistrate shall release the amount immediately. It is further directed that in the event of acquittal of the accused in CA.No.114/2025, the complainant shall redeposit the said sum along with the interest at the bank rate which was prevailing during the relevant time from the date of passing of this order to till the date of passing judgment in appeal.

Dictated to the Shorthand writer and typed by her and corrected and pronounced by me in open Court, this the 15th day of April 2026.

Additional District & Sessions Judge
Chengalpattu.

Both sides Exhibits and Witnesses: Nil

Additional District & Sessions Judge
Chengalpattu.

Draft/Fair Order
CrI.M.P.No.447/2026
in
CrI.M.P.No.3231/2025
in
CA.No.114/2025
Dated:15.04.2026
ADJ/CPT
