

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI

Present : Thiru.S.Karthikeyan, M.A., M.L., M.Sc., PGDCFS.,

Principal Sessions Judge.

Friday, the 7th day of February, 2025.

Crl.M.P.No.1/2025

in

C.A.No.171/2025

in

C.C.No.229/2019

(on the file of the Learned Metropolitan Magistrate, FTC-IV, George Town, Chennai)

1. M/s.Wayne-Burt Petrochemicals Pvt. Ltd.,
Represented by its Director,
Triplicani Gowrishankar Mahesh,
A-10, SIPCOT Industrial Park,
Irrungattukottai, Sriperumbudur,
Chennai, Tamil Nadu-602105.
2. Triplicani Gowrishankar Mahesh,
Flat No.120, Doctor's Residences,
Maheshwara Medical Campus,
Patancheru (M), Chitkul, Sangareddy,
Telangana-502307. Petitioners/Appellants/Accused-1 and 2

Vs.

Sivagnanam G.Illanahai Respondent/Respondent/Complainant.

This petition is coming on this day before this court for hearing in the presence of Mr.A.K.Sriram, Senior Counsel for M/s.G.Saravanan, Ganesh V.Aranala and M.Ashok Kumar, the counsel for the petitioner, upon hearing the counsel for the petitioner, this Court delivered the following,

ORDER

1. The petitioners seek suspension of sentence pending disposal of the appeal.

2. The Petitioners/Appellants herein are the accused No.1 and 2 in C.C.No.229/2019 on the file of the Learned Metropolitan Magistrate, FTC-IV, George Town, Chennai and they were convicted for the offence punishable u/s 138 of N.I.Act and the 2nd petitioner was sentenced to undergo one year simple imprisonment and imposed a compensation of Rs.6,58,60,274/- (total cheques amount) along with 3% interest per annum for the said cheque amount from the date of dishonour of case cheque to till the date of judgment jointly and severable by the

accused A1, A2 and A5, within one month, in default, to undergo three months simple imprisonment.

3. Learned Senior Counsel appearing for the petitioner / appellant submitted that based on Ex.P6 and P7 Memorandum of Understanding and loan agreement, the subject cheque was issued. As against the said subject cheque, the respondent / complainant has approached the NCLT in IBA No.553/2019 and by order dated 02.08.2019, the NCLT, Chennai has dismissed the petition moved by the Financial Creditor, namely, the respondent / complainant herein by rendering a finding that the complainant has failed to prove the existence of debt as against the petitioners / appellants herein. This NCLT order was placed before the trial court as Ex.D3. According to the learned Senior Counsel for the petitioners / appellants, the order of the NCLT is sufficient to rebut the presumption u/s 139 of N.I.Act, however, without considering the order passed by the NCLT, the trial court has convicted and sentenced the petitioners / appellants. Since the judgment was pronounced on 30.01.2025 at 8.30 p.m., the 2nd petitioner / accused did not present. Therefore, a non-bailable warrant was issued as against him. Since the existence of the debt itself is not proved before the trial court, according to the learned Senior Counsel for the petitioners / appellants, he has fair chance of success in the appeal. Therefore, he prays for suspension of sentence imposed by the trial court vide its judgment dated 30.01.2025.

4. Considering the above position, this court is inclined to suspend the sentence imposed by the trial court on condition that the 2nd petitioner shall surrender before the trial court within two weeks and execute a bond for a sum of Rs.1,00,000/- along with two sureties for a likesum to the satisfaction of the trial court. On execution of the bond, the sentence is suspended till the disposal of the appeal.

Dictated to Steno-typist, typed by him directly, corrected and pronounced by me in open court this the 7th day of February, 2025.

Principal Sessions Judge

Copy to

The Learned Metropolitan Magistrate, FTC-IV, George Town, Chennai.