

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI

Present : Thiru.S.Karthikeyan, M.A., M.L., M.Sc., P.G.D.C.F.Sc., P.G.D.D.F.,

Principal Sessions Judge.

Tuesday, the 21st day of April, 2026.

Crl.M.P.No.1/2025

in

C.A.No.931/2025

in

C.C.No.5701/2023

(on the file of the Metropolitan Magistrate for the exclusive trial of CCB Cases (relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai)

L. Kuberan

S/o. Loganathan

....Petitioner/Appellant/Accused-7

Vs.

State, Rep. by,

Inspector of Police,

Central Crime Branch (Team-17A),

Veperiy, Chennai.

.... Respondent/Respondent/Complainant

This petition is coming on this day before this court for hearing in the presence of M/s. R. Raghu Raj, Srinivasan.A, Vijayarangam.R.S., K.Meena, the counsel for the petitioner and of the CPP for the respondent and upon hearing both sides, this Court delivered the following,

ORDER

1. The petitioner has come up with the present application seeking for suspension of sentence of imprisonment and also for suspension of the compensation amount of Rs.7,00,00,000/- imposed by the trial court in C.C.No.5701/2023 by judgment dated 04.07.2025.

2. According to the petitioner, the defacto complainant had filed a private complaint u/s. 156(3) Cr.P.C. before the learned Chief Metropolitan Magistrate, Egmore, Chennai against the petitioner and six others in Crl.M.P.No.6122/2011. The said complaint was forwarded to Deputy Commissioner of Police, CCB, Chennai which was in turn forwarded to the respondent and after preliminary enquiry, a case in Crime No.87/2012 was registered for the offences punishable u/s.468, 420 r/w.

Section 34 of IPC. On completion of investigation, a final report was filed before the trial court for the offence punishable u/s. 468, 420 r/w. 34 of IPC @ section 120(b), 420, 423, 465, 468 and 471 IPC against the petitioner herein and others.

3. On the side of the prosecution, 14 witnesses were examined and on completion of trial, the trial court has found the petitioner guilty and imposed sentences for the offences punishable u/ss.120(b), 465 r/w.34 IPC (5 counts), 468 r/w. 34 IPC (3 counts), 467 r/w. 34 IPC. Apart from that, the petitioner was directed to pay the compensation of Rs.7,00,00,000/- to the defacto complainant and PW2 and PW6 within six months from the date of judgment.

4. According to the petitioner/appellant, he has fair chance of acquittal in the appeal and prays for suspension of sentence and suspension of compensation.

5. The learned CPP has contended that after full fledged trial, the trial court has found the Accused guilty and imposed sentences for the offences punishable u/s.120(b), 465 r/w. 34 (5 counts), 468 r/w. 34 (3 counts), 467 r/w. 34 IPC and directed to pay the compensation of Rs.7,00,00,000/- u/s.357(3) Cr.P.C. to the defacto complainant. Section 357(3) Cr.P.C. is not merely punitive but is a part of a restorative and victim centric approach to redress the actual loss caused. It is recoverable as fine u/s.431 Cr.P.C. and suspension of the same without legal justification would amount to denial of justice to the victim. The petitioner has not deposited any part of the compensation to show his bonafide. No material is placed to prove the financial hardship or legal infirmity in the compensation order. It is a settled position of law that mere filing of an appeal does entitle the Accused to automatic suspension of compensation. The learned CPP has relied on the decision of the Hon'ble Apex Court in Hari Singh Vs Subvir Singh (1998) 4 SCC 551 and Mangilal Vs State of MP (2004) 2 SCC 447. Therefore, he prays for dismissal of the petition.

6. Both side heard.

7. Point for determination.

Whether the sentence and compensation imposed on the petitioner/appellant is to be suspended or not?

Answer:

8. This court has given its thoughtful consideration to the rival submissions put forth by either side. On careful perusal of record, it is found that the petitioner/appellant was tried by the trial court for the offence punishable u/s.120(b), 420, 423, 465, 468 and 471 IPC and found guilty of the offences punishable under Sections 120(b), 420, 423, 465, 468 and 471 IPC and sentenced him for the said offences. Apart from that, the trial court has directed the petitioner to pay a compensation of Rs.7,00,00,000/- to the defacto complainant and PW2 and PW6 within six months from the date of the judgment.

9. Aggrieved by the same, the petitioner/appellant before this court by way of this appeal. Pending appeal, the petitioner prays for suspension of the sentence of imprisonment and compensation imposed against him. It is well settled position of law that the suspension of sentence and suspension of compensation are dealt with in different provisions of the Code of Criminal Procedure. Section 389 Cr.P.C. dealt with suspension of sentence pending appeal. As per Sub Section (1) of 389 Cr.P.C. pending any appeal by a convicted person, the appellate court may, for the reasons to be recorded by it in writing order that the execution of sentence or order appealed against be suspended and also if he is in confinement that he be released on bail or on his own bond.

10. From the submissions of the learned counsel for the petitioner, it is found that the petitioner was on bail throughout the trial. The appellant has make out certain arguable points before this court in this appeal. Therefore pending appeal, this court is inclined to suspend the sentence imposed on the petitioner/appellant.

11. As stated supra, apart from the sentences imposed on the petitioner/appellant, the trial court has also directed him to pay the compensation of Rs.7,00,00,000/- to the defacto complainant and PW2 and PW6. No doubt, as contended by the learned CPP the order of compensation is not only punitive in nature and also restorative in nature.

At the same time, the order of compensation should be commensurate to the loss suffered and the financial capacity of the petitioner/appellant.

12. The learned counsel for the petitioner/appellant submitted that the trial court has not given any reason as to how the sum of Rs.7,00,00,000/- was arrived as compensation. Further, the learned counsel for the petitioner submitted that the trial court has imposed fine and also imposed compensation. According to the learned counsel for the petitioner, the learned Magistrate, has to either award compensation as whole or part of the fine u/s.357(1) or shall impose fine as independent component. The learned Magistrate cannot impose both.

13. In this connection, it is useful to refer to the decision of the Hon'ble Apex Court in Dilip S. Dahanukar vs. Kotak Mahindra Co.Ltd. and Another, (2007) 6 SCC 528 wherein the Hon'ble Apex Court held that the Magistrate cannot award compensation in addition to fine. It is further held that Sub Section (2) of Section 357 Cr.P.C. would be attracted even when the appellant was directed to pay compensation. The appellate court however while suspending the sentence, was entitled to put the appellant on terms. However, no such term could be put as a condition precedent for entertaining the appeal which is a constitutional and statutory right. Further, in the said decision, the Apex Court has observed that the amount of compensation must be a reasonable sum. No unreasonable amount of compensation can be directed to be paid. In this case, as contended by the learned counsel for the petitioner/Appellant, the trial Court has not assigned as to how it arrived the said amount as compensation and there is no whisper as to the capacity of the petitioner to pay the same. Considering the all above circumstances, this court is inclined to suspend the direction of compensation on condition that the petitioner shall deposit a sum of Rs.7,00,000/- before the trial court.

14. Accordingly, the sentence of imprisonment imposed on the petitioner by the trial Court is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned XXVIII Metropolitan Magistrate / XXVIII Judicial Magistrate for trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases on or before 28.04.2026. Further, the order of compensation is also hereby suspended on condition that the petitioner shall

deposit a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) before the trial court to the credit of C.C. within 8 weeks from the date of receipt of this order.

Dictated to Steno-typist, typed by him directly, corrected and pronounced by me in open court this the 21st day of April, 2026.

Principal Sessions Judge.

Copy to

The learned XXVIII Metropolitan Magistrate / XXVIII Judicial Magistrate for trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.