

**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, ERODE**

Present : Thiru. B. Murugesan, B.A., B.L.,
Principal Sessions Judge, Erode

Tuesday, the 16th day of July, 2024

MP No.1/2024
in
CA No.217/2024

S.Lavanya (31),
W/o Saravanakumar,
No.8, Thirumalai Street,
Veerapanchatram, Erode – 638 004. ... Petitioner/Appellant/Accused

Vs

P.Sundrarajan (64),
S/o Palanisamy,
77, S.G.Valasu South,
Veerapanchatram (po),
Erode – 638 004. ...Respondent/Respondent/Complainant

Petition dated 06.03.2024 and 14.03.2024 filed under **S.389(1)** CrPC, praying to suspend the sentence of imprisonment imposed upon the petitioner/appellant/ accused in STC No.73/2020 dated 05.08.2023 on the file of the Judicial Magistrate, Fast Track Court No.I, Erode.

This petition coming on this day for hearing before me in the presence of the mother of the petitioner/appellant/accused appearing *in person* and upon hearing the arguments on the side of the petitioner, this court made the following

ORDER

Heard both sides.

Claiming an order suspending the execution of sentence of imprisonment passed in the judgment dated 05.08.2023 against the petitioner/appellant/accused in STC No.73/2020 wherein the trial court has found the petitioner/appellant/accused guilty of the offence punishable under S.138 of Negotiable Instruments

Act, 1881, sentenced her to undergo simple imprisonment for three months and ordered her to pay a sum of Rs.5,00,000/- towards compensation to the respondent/complainant under S.357(3) CrPC within a period of three months from the date of judgment, in default, to undergo simple imprisonment for one month, the petitioner/appellant/ accused has filed this application under S.389(1) CrPC.

Aggrieved by such conviction and sentence, the petitioner/appellant/accused has filed the criminal appeal in CA No.217/2024 on the file of this court.

Pending the criminal appeal, the petitioner/appellant/accused seeks suspension of sentence on the ground that she has a fair chance of success in the criminal appeal.

The mother of the petitioner/appellant/accused, Tmt.Murugavalli Vadivel, has appeared before this court *in person* and submitted that on account of the non appearance of the petitioner/appellant/accused, NBW has been issued against her and in pursuance of the execution of the NBW, the petitioner/appellant/accused was arrested and remanded to judicial custody on 05.07.2024 and she is in prison.

The mother of the petitioner/appellant/accused has raised certain relevant issues and arguable points which have to be dealt with only at the time of final hearing.

The petitioner/appellant/accused, in her petition, consents to deposit 20% of the cheque amount before the trial court.

The respondent/respondent/complainant appeared before this court and made an endorsement to the effect that he has no objection in allowing this miscellaneous petition.

Considering the criminal appeal having been filed by the petitioner/appellant/accused challenging the conviction and sentence of the trial court, this court is inclined to suspend the sentence imposed on the petitioner/appellant/accused by the trial court in STC No.73/2020.

In the result,

(a) the execution of sentence of imprisonment in STC No.73/2020 dated 05.08.2023 on the file of Judicial Magistrate, Fast Track Court No.I, Erode, is suspended till the appeal is disposed of, with the following conditions,

(i) that 20% of the cheque amount (less if any of the amount paid under S.143A of NI Act) is ordered to be deposited before the trial court by the petitioner/appellant/accused in terms of S.148 of Negotiable Instruments Act, 1881, within a period of 60 days from the date of this order, failing which this order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically, and

(ii) that the petitioner/appellant/accused, within 15 days from the date of such deposit of 20% of the cheque amount, has to execute a bond for a sum of Rs.10,000/- with two sureties for the like sum each to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.I, Erode, and

(b) the learned Judicial Magistrate, Fast Track Court No.I, Erode, shall follow the procedures laid down under S.148 of NI Act in respect of the amount so deposited.

Pronounced by me in open court, this 16th day of July, 2024.

Principal Sessions Judge
Erode

Copy to

1. Judicial Magistrate, Fast Track Court No.I, Erode
2. Tmt.Murugavalli, W/o Vadivel, Nehru Street, Alangattu Valasu, Modakurichi (TP), Modakurichi – 638 104.