

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

Present: **Tmt.R.Malathi, M.L.,**
Sessions Judge, Magalir Neethimandram
(Fast Track Mahila Court), Erode,
In charge of Principal Sessions Judge, Erode.

Thursday, the 21st day of December, 2023

MP No.1/2023
in
CA No. 458/2023

P.Kanagaraj(46),
S/o.Ponnusamy,
Poonthurai Road,
Mukasi Hanuman School,
Near Banker's House,
Erode.

... Petitioner/Appellant/Accused

Vs

N.Subramaniam (60),
S/o.Nagappan,
39/14,Amudapiriya Nagar,
Ellapalayam Road,
Ganirauthar Kulam,
Veerappanchatram,
Erode District – 638 004.

... Respondent/Respondent/Complainant

Petition dated 06.12.2023 and 15.12.2023 filed under **S.389(1)** CrPC, praying to suspend the sentence of imprisonment imposed upon the petitioner/appellant/accused in STC No.44/2022 dated 07.11.2023 on the file of the Court of Judicial Magistrate, Fast Track Court No.I, Erode.

This petition coming on this day for hearing before me in the presence of Thiru.P.Manickam, Advocate for the petitioner and upon hearing the arguments on the side of the petitioner, this court made the following

ORDER

Heard the learned petitioner's counsel.

Claiming an order suspending the execution of sentence of imprisonment

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passed in STC No.44/2022 by judgment dated 07.11.2023 against the petitioner/appellant/accused wherein the trial court has found guilt of the petitioner/appellant/accused for an offence punishable under S.138 of Negotiable Instruments Act and imposed sentence to undergo simple imprisonment for three months and ordered him to pay a sum of Rs.2,00,000/- 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.

The sentence imposed upon the petitioner/appellant/accused was suspended by the trial court till 06.12.2023.

Aggrieved by the judgment of conviction and sentence, the petitioner/appellant/accused has filed an Appeal in CA No.458/2023.

Pending the Appeal, the petitioner/appellant/accused seeks suspension of sentence for the reason that he has good chance to succeed in the appeal.

Learned counsel for 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 is convicted by the trial court for three months and the petitioner/appellant/accused have a right to effectively contest the appeal. In the above said reasons, this court is inclined to suspend the sentence imposed on the petitioner/appellant/accused by the trial court in STC No.44/2022 by judgment dated 07.11.2023.

In the result,

(a) that the execution of sentence of imprisonment in STC No.44/2022 dated 07.11.2023 on the file of the court 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

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within a period of 30 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) that 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 21st day of December, 2023.

Sessions Judge
Magalir Neethimandram
(Fast Track Mahila Court), Erode
In charge of
Principal Sessions Judge, Erode

Copy to

1. Judicial Magistrate, Fast Track Court No.I, Erode
2. Thiru.P.Manickam, Advocate, Erode