

**In the Court of the III Additional District & Sessions Judge,
Dharapuram.**

**Present: Thiru.C.M.Saravanan.BA.,L.L.M.,
III Additional District & Sessions Judge, Dharapuram.**

Tuesday, the 04th day of November, 2025

Cr.M.P.No.1/2025

in

C.A.No. 75/ 2025

S.K.Balaji
S/o.M.S.Kumaresan
P.No.39 A, New No.30 A
Kovalan Road, Surampatti, Erode North,
Erode District.

... Petitioner/Appellant / Accused

Vs.

1.S.Venkatachalapathy

2. The State Represented by
The Additional Public Prosecutor, Dharapuram.

... Respondents /Complainant

This Petition came before this Court for the final hearing and in the presence of Thiru.B.Udhayamoorthy, Advocate for the Appellant/Accused and Thiru.P.Vedhachalam, Advocate for the Respondent /Complainant and Thiru.K.M.Manikandan, Additional Public Prosecutor for the State, after hearing both sides and perusing the records, this Court delivers the following :

ORDER

1) This petition has been filed u/s 430(1) of BHARATIYA NAGARIK SURAKSHA SANHITA 2023 for suspension of sentence imposed on the petitioner by the trial Court.

2) Gist of the petition:-

The respondent has filed a complaint against the petitioner for alleged offense under section 138 of Negotiable Instrument Act before the court of the Judicial Magistrate, Kangayam in STC.No.303/2019. After trial, the learned Judicial Magistrate, Kangayam in its judgment dated 28.02.2025 convicted the accused under 138 of NI Act and sentenced under section 395(3) BNSS as the appellant has to undergo Simple imprisonment for six month and to pay a compensation of Rs.12,00,000/- in default S.I for three months and no benefits ordered under section 357(3) of Cr.P.C. The memorandum of appeal may be read as part and parcel of this affidavit.

3) Gist of the Counter:-

The petition is false, frivolous, vexatious and the same is not maintainable under law and on facts. It is true that on 28.02.2025, the Judicial Magistrate Court, Kangayam, in case STC.No.303/2019 ordered the petitioner to be sentenced to 6 months simple imprisonment and to pay the cheque amount of Rs.12,00,000/- as compensation to the respondent. In the appeal, the appellant has no grounds to be acquitted from the case. The petitioner, who is seeking to set aside the sentence of the trial court, has not paid the compensation amount mentioned in the above judgment to the respondent till date. He has not taken any action to deposit the said compensation amount in the court. It is not permissible in law to seek to set aside the sentence only without depositing the said compensation amount. The petitioner has filed this petition in the court without any justification to delay the sentence and cheat by not paying the compensation amount. This petition is devoid merits and the same is filed to drag the matter without any merit. Hence it is prayed this court may be pleased to dismiss the petition.

- 4) The points for consideration is, whether the petition is deserved to be allowed or not ?
- 5) Heard both sides.

The counsel for the petitioner/appellant state that, the petitioner is having valid chance of success in the appeal. In the said circumstances, unless the sentence and conviction passed by the trial court in S.T.C.No.303 of 2019 on 28.02.2025 is suspended, the petitioner will be put into great loss and hardship and hence prays for suspension of sentence till the disposal of the appeal. The respondent side filed counter by objecting this petition.

6. No averments have been raised by the petitioner/appellant for reducing the percentage or for exempting the deposit of 20% of the compensation amount.

7. Considering the reasons stated in the grounds of appeal, this court is inclined to suspend the sentence imposed by the trial court and to grant the bail on the following conditions.

8. In the result, this petition is allowed and the sentence imposed on the Petitioner/appellant/accused is suspended till the disposal of the appeal. The petitioner is directed to execute a bond for Rs.10,000/- with 2 sureties each for the like sum to the satisfaction of the learned Judicial Magistrate, Kangayam and further directed that the petitioner shall deposit 20% of the cheque amount awarded by the trial Court within a month. The trial court should ensure that the 20% compensation is deposited by the petitioner.

Given by me, this the 04th day of November 2025.

III Additional District & Sessions Judge,
Dharapuram.

Copy to:

1. The Judicial Magistrate, Kangayam.
2. The Additional Public Prosecutor, Dharapuram.
3. Counsel for the Appellant/Accused