

IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE AT TIRUVALLUR

Present: Dr. J. JULIET PUSHPA, Ph.D. (Law)
Principal District and Sessions Judge, Tiruvallur
Monday, the 20th day of July 2026
M.P.No: 1 / 2026 in CrI. Appeal No. 219/ 2026
(CNR No.TNTR010035662026)

S.Sharmila W/o.Prabhu

...Petitioner/Accused
//Versus`//

T.Dhatchinamurthy S/o.Thanikachalam

...Respondent/Complainant

Petition dt: 28/04/2025 u/s. 430(1)BNSS praying for suspension of sentence pending Criminal Appeal

This petition coming on this day for hearing before me having the petition filed by the petitioner Counsel M/s.Anoj Elangovan, J.Nikhil, V.S.Poosha Datta, Kavya Darshini and upon hearing the arguments of the petitioner/appellant and upon perusing the records and material and hearing both sides, this court made the following:-

ORDER

Heard arguments of the learned counsel for the petitioner. Petition filed u/s 430(1) of BNS praying to suspend the sentence imposed by the Judicial Magistrate, Fast Track Court at Magisterial Level, Ambattur in S.T. C No 160/2023 dated 15.04.2026 till the disposal of appeal.

The learned counsel for the petitioner has submitted that the complainant through his cross examination stated that Rs.51,00,000/- had already been repaid including Rs.21,00,000/- towards property and Rs.30,00,000/- in cash and now the present cheque amount is not the actual due she is liable to the complainant, the complaint is not sustainable and the trial court without considering material evidence the trial court without proper appreciation of evidence and documents convicted the accused. Hence the petitioner has chances to succeed in the appeal. The trial court already suspended the sentence, there is no delay in filing the appeal, and the Cheque amount is Rs.53.00,000/-, hence, petitioner may be exempted from depositing the 20% of in the Cheque amount. Hence, prayed to suspend the sentence till disposal of appeal.

A perusal of records shows that Trial Court found the petitioner/accused found guilty u/s 138 of negotiable Instrument Act convicted u/s 255(2) Cr.P.C. and sentenced him to undergo 20 months simple imprisonment and Accused directed to pay Rs.53,00,000/- to the complainant within one month as compensation u/s 357(3) Cr.P.C in default to undergo further two months simple imprisonment.

As against the conviction and sentence of imprisonment of trial Court, the accused preferred the present appeal which is now taken on file as CA.219/2026 . The trial court suspended the sentence for 30 days as per the orders in in CMP No.341/2026 dt. 15.04.2026. Admittedly, there is no delay in filing the appeal and now appeal is preferred and the same is admitted. Therefore, this Court is inclined to suspend the sentence of imprisonment imposed by trial court till the disposal of appeal.

The learned counsel for the petitioner argued that the complainant through his cross examination stated that Rs.51,00,000/- had already been repaid including Rs.21,00,000/- towards property and Rs.30,00,000/- in cash and now the present cheque amount is not the actual due she is liable to the complainant, the complaint is not sustainable and the trial court without considering the civil nature of the dispute and the defence, the trial court without considering material evidence and documents convicted the accused and hence the petitioner has fair chances to succeed in the appeal , the Cheque amount is Rs.53.00,000/- hence, he may be exempted from the condition for depositing the 20% of statutory amount in the total compensation amount.

As far as the contention of the learned counsel for the petitioner is concerned, as per the principles laid down in the above said judgment, the Hon'ble Apex Court has held that if the Court finds any exceptional reason for non-imposing a condition of depositing 20% of the compensation amount, then the Court can suspend the sentence without imposing such condition of deposit. So, the Court shall consider non-imposing the condition for depositing 20% of compensation amount only in respect of exceptional circumstances.

As per the principles laid down in the above judgment of the Hon'ble Apex Court, it has been held that the deposit of 20% of compensation amount is not an absolute rule and it can be reduced or even exempted in exceptional cases by assigning reasons. Based on the above authority, our Hon'ble High Court, Madras in the Judgment rendered on **22.01.2024 in Crl.O.P.947/2024 (CR Balasubramaniam Vs. P. Eswaramoorthi)** held that,

“If the accused person is able to make out a ground for reduction of this percentage or for exemption of deposit, the same has to be considered by the appellate Court before directing deposit of compensation amount as a condition while suspending the sentence / granting bail”

Hence, as per the principles laid down in the above Judgment of the Hon'ble Apex Court and our Hon'ble High Court, Madras, it is understood that deposit of 20% of compensation amount is not an absolute rule while suspending the sentence of the Trial Court. On the other hand, it can be exempted under exceptional circumstances by assigning reasons.

However it is contended by the counsel for petitioner states that the complainant through his cross examination stated that Rs.51,00,000/- had already been repaid including Rs.21,00,000/- towards property and Rs.30,00,000/- in cash and now the present cheque amount is not the actual due she is liable to the complainant, the complaint is not sustainable and the trial court without considering the civil nature of the dispute and the defence and without considering material evidence and documents convicted the accused. The petitioner has made prima facie to defend his case. Considering the arguments of learned Counsel for accused and considering other facts and circumstances, and in view of the above authority, this Court is inclined to suspend the sentence imposing the condition for depositing 10 % of compensation amount .

On considering the above aspects, this Court is inclined to suspend the sentence of imprisonment imposed by the Judicial Magistrate, Fast Track Court at Magisterial Level, Ambattur in S.T. C No 160/2023 dated 15.04.2026 till the disposal of the Criminal Appeal No. 219/2026 and on condition that the petitioner/appellant to deposit 10 % of the compensation amount before the trial Court to the Credit of S.T. C No 160/2023 within a period of sixty days. In default of deposit of the compensation amount, the order passed will stand cancelled automatically. The petitioner/ Appellant is directed to appear before the III Additional District and Sessions Judge, Poonamallee on 21.09.2026.

Dictated to the Steno Typist and Pronounced by me in Open Court, this the 20th day of July 2026.

**Principal District and Sessions Judge,
Tiruvallur**

Copy to:-

The Petitioner's Advocate M/s.Anoj Elangovan
The III Additional District and Sessions Judge, Poonamallee
The Judicial Magistrate, Fast Track Court at Magisterial Level, Ambattur