Case Citation: (2026) ibclaw.in 2855 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.05.2026

CORAM:

THE HON'BLE MRS. JUSTICE S.SRIMATHY

CRL OP(MD).No.9164 of 2026

Shajin ...Petitioner

Vs.

Gopaladhas ... Respondent

Prayer: This Petition has been filed under Section 528 of BNSS, to call for the records and set aside the order of condition to deposit 20% of the total compensation amount imposed by the trial Court ie., Rs.60,000/- passed in Crl.MP.No.852 of 2026 in C.A.No.35 of 2026 dated 16.04.2026 on the file of Principal Sessions Judge, Kanyakumari District at Nagercoil and allow the Criminal Original Petition.

For Petitioner : Mr.S.Sivakumar

For Respondent : No appearance

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ORDER

This Criminal Original Petition has been filed to set aside the order of condition to deposit 20% of the total compensation amount imposed by the trial Court ie., Rs.60,000/- passed in Crl.MP.No.852 of 2026 in C.A.No.35 of 2026 dated 16.04.2026 on the file of Principal Sessions Judge, Kanyakumari District at Nagercoil.

2. This Court carefully considered the submissions made by learned counsel for petitioner and the materials available on record.

3. The petitioner faced trial for offence u/s.138 of the Negotiable Instruments Act before the Judicial Magistrate No.II, Kuzhithurai, in STC No.142 of 2018. The trial Court, by judgment dated 02.12.2025, convicted the petitioner and sentenced him to undergo six months simple imprisonment and to pay the compensation amount of Rs.3,00,000/-, in default, to undergo one month simple imprisonment. Aggrieved by the same, the petitioner filed C.A.No.35 of 2026 before the Principal Sessions Judge, Kanyakumari District at Nagercoil. Along with this appeal, the petitioner also filed an application for suspension of sentence in Crl.M.P.No.852 of 2026. The Court below, while suspending the sentence,

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imposed certain conditions. One such condition that was imposed by the Court below to the effect that the petitioner must deposit 20% of the cheque amount has been put to challenge in the present petition.

4. The main ground that was urged by learned counsel for petitioner is that the petitioner had already filed an insolvency petition before the concerned Court and the respondent/complainant after being aware of the same misused the cheque and deposited in the bank. Therefore, this was one of the main ground that was taken in the grounds of appeal. It was contended that even without considering the same, the Court below had mechanically imposed the condition of deposit of 20% of the cheque amount.

5. The Apex Court in Jamboo Bhandari v. M.P.State Industrial Development Corporation Ltd. and others [2023 (3) MWN (Cr.) DCC 104 (SC)] has held that deposit of 20% of the compensation amount is not an absolute rule and it can be reduced or even exempted in exceptional cases by assigning reasons. The Kerala High Court also taken into consideration the scope of Section 148 of the Negotiable Instruments Act and it was held

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that reasons must be assigned while directing deposit of 20% of the fine amount/compensation amount imposed by the trial Court. Useful reference can be made to the judgment in Baiju v. State of Kerala [2023 (3) MWN (Cr.) DCC 140 (Ker.)]

6. In the light of the above judgments, it is clear that there is an element of application of mind that is involved while directing deposit of 20% of the amount as contemplated u/s.148 of the Negotiable Instruments Act. 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.

7. In the instant case, the petitioner has raised a prima facie ground before the appellate Court and is seeking for exemption of deposit of the cheque amount/compensation amount. The lower appellate Court ought to have applied its mind on this ground that was raised by the petitioner and passed a reasoned order. The same has not been done in this case. Hence, this Court is inclined to remand the matter back to the file of Principal

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Sessions Judge, Kanyakumari District at Nagercoil, to deal with the issue regarding exemption sought for by the petitioner in depositing 20% of the compensation amount. The ground raised by the petitioner shall be considered and it is left open to the lower appellate Court to pass appropriate orders in this regard on its own merits, within a period of four (4) weeks from the date of receipt of a copy of this order.

8. This Criminal Original Petition is disposed of in the above terms.

07.05.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes
msrm

To

1. The Principal Sessions Judge,
   Kanniyakumari @ Nagercoil.

2. The Principal District Courts
   Tamil Nadu.

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S.SRIMATHY, J.

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