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Crl.M.P.No.10393 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL MP No. 10393 of 2026

in

CRL RC NO. 697 OF 2026

1. S.Vishwapathy
S/o.Subbiah,
No.36, Sri Amman Nagar,
(Landmark Near Chuti Genius Play School and
Day Care)
Madhanandhapuram,
Chennai - 600116.
2. M/s.Nexareal
Rep by its Proprietor S.Vishwapathy,
GST No.33AKOPV6293JIZC
1A, Moorthy Street, West Mambalam,
Chennai - 600033.

..Petitioner(s)

Vs

S.Priyadharshini
Wife of Ramkumar,
No.149, 3rd Floor,
Raju Nagar 2nd Street,
Thoraipakkam,
Chennai - 600097.

..Respondent(s)

Prayer: To suspend the sentence imposed by the V Additional Judge, Chennai in Judgment and order of conviction dated 17.02.2026 in Crl.A.No.1011 of 2024 confirming the judgment and order passed in STC No.120 of 2024, on the file of Metropolitan Magistrate, Fast Track Court-II (Magisterial level), Egmore at Allikulam, Chennai and enlarge the petitioner on bail.

For Petitioner(s):

M.Soundar Vijay Arul Ram

**WEB COPY****ORDER**

This Criminal Miscellaneous Petition has been filed by the Revision Petitioner, praying to suspend the sentence, imposed on the Revision Petitioner in Crl.A.No.1011 of 2024, dated 17.02.2026, by the learned V Addl. Judge, Chennai in , confirming the Judgement of conviction and sentence and order, dated 11.11.2024 made in STC.No.120 of 2024, by the Metropolitan Magistrate, Fast Track Court-II (Magisterial level), Egmore @ Allikulam, Chennai, till the disposal of the instant Criminal Revision Petition.

1. By the impugned judgement of conviction and sentence and order of the Trial Court, the 1st Revision Petitioner representing 2nd revision petitioner-Company/A2 was convicted and sentenced for the offence as follows:

Petitioner	Conviction	Sentence
A1 & A2	U/s.138 of Negotiable Instruments Act.	To undergo simple imprisonment for a period of one year and to pay the compensation of Rs.25,00,000/- to the complainant, in default, to undergo further SI for a period of 2 months.

2.Challenging the above said judgement of conviction and sentence and order, the Revision Petitioners have filed the above Crl.RC.No.697 of 2026, along with the instant Criminal Miscellaneous Petition, seeking suspension of sentence and bail pending disposal of the Criminal Revision.



3. This Court heard Mr.M.Soundar Vijay Arul Ram, the learned counsel for the Revision Petitioners and considered his submissions and also perused materials placed before this Court.

4. The learned counsel for the Revision Petitioners has submitted that the petitioner is alleged to have issued three post dated cheques totalling Rs.25,00,000/- in favour of the respondent towards discharging liability in respect of the amounts which he had already obtained from the respondent regarding purchasing of house property by the respondent. When the said cheques were presented for encashment, they were returned with an endorsement 'Fund Insufficient'. After issuance of statutory notice, since the petitioners have not repaid the cheque amount, a complaint was filed against the revision petitioners under section 138 of the Negotiable Instruments Act. Both the courts below have failed to consider that the petitioners merely acted as a real estate agent/facilitator connecting the respondent with the actual landowner and the builder. The petitioners have no legally enforceable debt towards the respondent and the cheques were issued merely as a security to ensure the progress of the transaction. Both the courts below have failed to examine whether the petitioners have any independent liability towards the complainant or whether the petitioners were merely connected with the transaction. The cheque was issued only as a security cheque in connection with the construction transaction and not towards discharge of any existing legally enforceable debt. In the light of the above infirmities and discrepancies

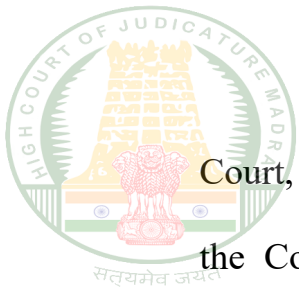


in the evidence of the prosecution witnesses, both the Courts below have failed to consider that the prosecution has not proved its case beyond any doubt. It

was further argued that the learned Trial Court as well as appellate Court also failed to notice the discrepancies in the deposition of witnesses and the crystal part of the evidences was not at all assessed by both the Courts below. It was further argued that the judgment passed by both the Courts below was based on surmises and conjectures without considering the entire evidence on record.

5. It is further argued that due to pendency of the criminal cases before this High Court, there is a blinking chance that in the near future, this Criminal Revision Case will be finally heard and decided. It is further submitted that the **1st petitioner is now confined in jail** and there are arguable points in this Criminal Revision Case and the Revision Petitioner has a fair chance of success in this Criminal Revision Case. Thus, the learned counsel for the Revision Petitioners has prayed for suspension of sentence and bail, till the disposal of this Criminal Revision Petition.

6. Several other submissions in order to demonstrate the falsity of the allegations made against the Revision Petitioners have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the Revision Petitioners that he is ready to cooperate with the process of law and shall faithfully make himself available before the



Court, whenever required and is also ready to accept all the conditions, which the Court may deem fit to impose upon him. The Revision Petitioners undertake that in case the 1st petitioner, is released on bail, he will not misuse the liberty of bail and will cooperate in disposal of Revision.

7. Considering the arguments advanced by the learned counsel for the Revision Petitioners, this Court is of the view that the Trial Court has failed to appreciate the evidence on record and the judgment was passed without considering the entire materials place before it and during the Trial the 1st Revision Petitioner was also on bail **and now the 1st revision petitioner is in jail since 16.06.2026.**

8. Further, it is observed that when the accused have been under incarceration for sometime and when there are points in the Revision, which favour the accused, then the Courts should not shy from granting suspension of sentence, as the liberty of the individual would be at stake, if the revision results in acquittal at a later point of time. In this regard, the decision of the Hon'ble Supreme Court of India, in the case of *Rabi Prakash Vs. The State of Odhisha reported in 2023 Live Law (SC) 533* is of relevance.

9. The Revision Petitioners have raised substantial grounds in the Revision, which require detailed appraisal. Further, the Revision is not likely to be taken up in the near future and the **1st petitioner has been now confined in prison.** In such view of the matter, this Court is of the view that the Revision Petitioners are entitled to the relief of suspension of sentence and bail.



10. Accordingly, pending the Criminal Revision Case, the relief of suspension of sentence and bail is granted to 1st Revision Petitioner, namely,

S.Vishwapathy, representing 2nd revision petitioner - company on the following conditions:-

i. The 1st Revision Petitioner is ordered to be released on bail, on his executing a bond before the learned Metropolitan Magistrate, Fast Track Court-II (Magisterial Level), Egmore @ Allikulam, Chennai along with two sureties for a sum of **Rs.15,000/-** each, subject to furnishing undertaking that he will co-operate in the hearing of the present Revision.

ii. The 1st Revision Petitioner and sureties shall affix their Photographs and Left Thumb Impression in the bond and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

iii. The realization of fine amount, if any, shall also remain suspended during the pendency of the present Revision.

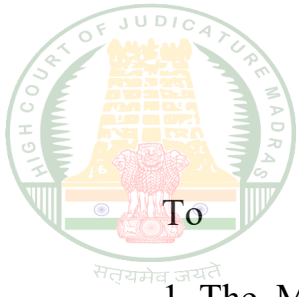
iv. The 1st Petitioner shall appear before the learned Metropolitan Magistrate, Fast Track Court-II (Magisterial Level), Egmore @ Allikulam, Chennai once in every month, ie., on the 3rd day of every month commencing from the month of August 2026 at 10.30 a.m., until further orders.

v. On acceptance of his bail bonds and sureties, the Trial Court shall transmit photostat copies thereof to this Court for being kept on records of this Revision.

With the above directions, this Criminal Miscellaneous Petition is ordered.

MSR

06-07-2026



To

1. The Metropolitan Magistrate, Fast Track Court-II (Magisterial Level), Egmore
@ Allikulam, Chennai
2. The V Additional Judge, Chennai
3. The Superintendent, Central Prison,
Puzhal – 1.



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