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Crl.R.C.No.776 of 2021
and
Crl.M.P.Nos.12123 & 11666 of 2021

A.D.JAGADISH CHANDIRA, J.,

These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 16.09.2020 passed in C.A.No.39 of 2017 on the file of the Additional Sessions Judge, Fast Tack Mahila Court, Tiruvarur, confirming the judgment, dated 25.09.2017, made in S.T.C.No.154 of 2017 on the file of the Fast Track Judicial Magistrate Court, Thiruthuraipoondi and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment dated 25.09.2017, made in S.T.C.No.154 of 2017 on the file of the Fast Track Judicial Magistrate Court, Thiruthuraipoondi, pending disposal of the Criminal Revision Case.

2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.



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3. In and by both the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.2,00,000/-, the Petitioner/ accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo four months Simple Imprisonment and to pay a sum of Rs.2,50,000/- (Rupees Two Laksh Fifty Thousand Only), as compensation to the Respondent/complainant, in default, to undergo two months Simple Imprisonment.

4. According to the learned counsel for the Petitioner/ accused, there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the Petitioner/ accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the Petitioner may be exempted from surrendering before the Trial Court.

5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this



Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-

(a) The Petitioner/Accused shall deposit 50% of the cheque amount (Rs.2,00,000/-), namely, Rs.1,00,000/- (Rupees One Lakh Only) before the Trial Court, within two weeks from the date of receipt of a copy of this order and on such deposit being made the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case.

(b) Thereafter, the Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties,



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of whom, one should be a blood relative, each for a like sum to the satisfaction of the Fast Track Judicial Magistrate Court, Thiruthuraipoondi.

(c) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(d) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.



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(e) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner/ Accused into custody for undergoing the sentence.

6. Notice to the respondent returnable by two weeks. Learned counsel for the petitioner is directed to take private notice on the respondent.

7. Post the matter after two weeks, for reporting compliance.

24.11.2021

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