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*Crl.M.P.No.4883 of 2024
in Crl.R.C.No.505 of 2024*

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M. NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition is filed by the petitioner, seeking to suspend the sentence of imprisonment imposed on her in Crl.A.No.288 of 2022 dated 07.02.2024 by the learned XVI Additional Sessions Judge, Chennai, pending disposal of the above revision.

2.The petitioner, who arrayed as accused in C.C.No.6715 of 2016 on a private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, was convicted by the learned XX Metropolitan Magistrate, Allikulam, Chennai by judgment dated 22.09.2022 and sentenced to undergo three months simple imprisonment and directed to pay the cheque amount of Rs.2,50,000/- as compensation. Aggrieved against the same, she preferred an appeal before the learned XVI Additional Sessions Judge, Chennai in Crl.A.No.288 of 2022. The learned Sessions Judge, by judgment dated 07.02.2024, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioner/accused filed Crl.R.C.No.505 of 2024 along with the instant miscellaneous petition seeking



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suspension of sentence and bail.

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3.The contention of the learned counsel for petitioner is that the respondent/complainant lodged a complaint using a stale cheque. According to the petitioner, the cheque was given in the year 2012 but it was presented after four years in the year 2016 and a complaint lodged. He further submitted that during the evidence of complainant she admits, issuance of the cheque in the year 2012 and further there are several communications confirming the same. In the statutory notice, there is no mention as to what is the liability and for what discharge of liability the cheque was issued. These facts not considered by the trial Court as well the Appellate Court. He further submitted that during the appeal, the petitioner had deposited 20% of the cheque amount, i.e., Rs.50,000/- on 03.01.2023 before the trial Court. The proof of the same is annexed at page 53 of the typed set. He further submitted that the petitioner has arguable points and fair chance of success in this revision. He further submitted that to show her bonafide, the petitioner is ready to further deposit Rs.75,000/-, which is 30% of the cheque amount of Rs.2,50,000/- to the credit of C.C.No.6715 of 2016. The petitioner being a lady apprehends execution of the conviction warrant by the respondent. The



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petitioner has to take care of her two children, who are studying.

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4.Already petitioner had deposited 20% of the cheque amount, i.e., Rs.50,000/- on 03.01.2023 and now undertakes to deposit Rs.75,000/- (30% of the cheque amount) within a period of four weeks, in total Rs.1,25,000/- (50% of cheque amount) will be credited in C.C.No.6715 of 2016.

5.Finding that the offence under Section 138 of Negotiable Instruments Act is a bailable offence and the petitioner now come forward to deposit Rs.75,000/-, this Court is inclined to suspend the sentence imposed on the petitioner.

6.Accordingly, the relief of suspension of sentence and bail are granted to the petitioner on the following conditions till the disposal of the above Criminal Revision:

(a) The petitioner/accused is directed to deposit the amount of Rs.75,000/- (Rupees Seventy Five thousand only) to the credit of C.C.No.6715 of 2016 on the file of XX Metropolitan Magistrate, Allikulam, Rippon Buildings, Chennai, within a period of six weeks from today;



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(b) On such payment, the petitioner is ordered to be enlarged on bail, on condition that she shall execute a bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties, each for a like sum to the satisfaction of the learned XX Metropolitan Magistrate, Allikulam, Rippon Buildings, Chennai;

(c) The respondent is at liberty to receive the amount of Rs.1,25,000/- deposited to the credit of C.C.No.6715 of 2016, by filing appropriate petition/Memo. The trial Court without notice to the petitioner to hand over the amount deposited. But with a condition, respondent to file an undertaking affidavit, that the receipt of the amount deposited is subject to the outcome of the above revision case;

(d) 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;

(e) The petitioner is directed to appear before the trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the criminal revision case and if she is not able to appear before the Trial Court on that day, she shall make arrangements to file an application under



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Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of her absence as directed by the Trial Court;

(f) It is made clear that no further extension of time will be entertained. In the event of petitioner not paying the amount of Rs.75,000/- within a period of six weeks, the order of granting suspension of sentence would automatically stand cancelled.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

20.03.2024
(2/2)

rsi

Note: Issue order copy on 21.03.2024.



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M. NIRMAL KUMAR, J.

rsi

To

- 1.The XX Metropolitan Magistrate,
Allikulam, Rippon Buildings,
Chennai
- 2.The XVI Additional Sessions Judge,
Chennai.

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**20.03.2024
(2/2)**