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Crl.M.P.No.3492 of 2024  
in Crl.R.C.No.384 of 2024

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**M. NIRMAL KUMAR., J.**

This petition has been filed to suspend the sentence imposed on the petitioner by the judgment dated 18.10.2022 passed in C.C.No.964 of 2020 on the file of the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai. Aggrieved against the conviction, preferred an appeal in C.A.No.302 of 2022, before the VI Additional Sessions Judge, Chennai. Appeal dismissed by judgment dated 05.02.2024, confirming the conviction and sentence of the trial Court and enlarge the petitioner on bail till pending disposal of the above Criminal Revision Case.

2. The petitioner has been convicted by the Trial Court in C.C.No.964 of 2020 and confirmed by the lower appellate Court for the offences under Section 138 of Negotiable Instruments Act and sentenced him as under:

| Rank | Charges            | Result | Punishment                                                                                                                   |
|------|--------------------|--------|------------------------------------------------------------------------------------------------------------------------------|
| A    | U/s.138 of N.I.Act | Proved | Convicted and sentenced to undergo S.I for 3 months and to pay Rs.17,85,000/- as compensation within a period of two months. |



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Challenging the same, the petitioner has preferred revision before this Court and seeking suspension of sentence.

3. The case of the prosecution is that the revision petitioner borrowed a sum of Rs.10,00,000/- from the complainant on 25.01.2017. To discharge the debt, he gave the subject cheque dated 09.07.2020 for Rs.17,85,000/- When the cheque was presented for collection, it got bounced with a memo stating that “Refer to Drawer”. Thereafter, the respondent has caused notice under Section 138 of Negotiable Instruments Act, dated 16.07.2020 calling upon the revision petitioner/accused to pay the cheque amount and intimating about the bouncing of the cheque. The statutory notice was received by the accused on 30.07.2020, however, he has sent reply on 07.08.2020. Thereafter, the complaint presented before the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai was taken on file and the same has been assigned C.C.No.964 of 2020.

4. During the trial, on the side of the prosecution, one witness examined as PW.1 and eight documents marked as Exs.P.1 to P.8. On the



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side of the defence, two witnesses examined as D.W.1 & D.W.2 and four documents marked as Ex.D1 to Ex.D4. On conclusion of trial, the trial Court convicted the petitioner as stated above.

5.The learned Counsel appearing for the petitioner submitted that at the time of filing the appeal before the lower appellate Court, the petitioner paid 20% of the cheque amount i.e. Rs.3,57,000/-. He would further submit that pursuant to the order passed by this Court on 05.03.2024, the petitioner had deposited another 30% of the cheque amount ie., Rs.5,35,500/- to the credit of C.C.No.964 of 2020. The receipt of credit produced along with memo.

6.Considering the submissions and on perusal of the materials, this Court is inclined to grant suspension of sentence.

7.In view of the above, the relief of suspension of sentence and bail is granted on the following conditions till the disposal of the above Criminal revision



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(i) The petitioner is ordered to be enlarged

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on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the trial Court.

(ii) The petitioner shall appear before the Trial Court on the first working day of once in three months at 10.30 a.m., until the disposal of the Criminal revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. 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.

8. Accordingly, this Miscellaneous Petition is ordered.

28.03.2024

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