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*Crl.M.P.Nos.5250, 5254 and 5258 of 2024
in Crl.R.C.Nos.568, 569 and 570 of 2024*

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in
Crl.R.C.Nos.568, 569 and 570 of 2024

M. NIRMAL KUMAR, J.

This Criminal Miscellaneous Petitions are filed by the petitioners, seeking to suspend the sentence of imprisonment imposed by the learned Metropolitan Magistrate, Fast Track Court-I, Allikulam, Chennai-03 in C.C.Nos.4330, 4337 and 4328 of 2016, respectively, vide judgment dated 20.10.2022 as confirmed by the XX Additional Sessions Judge, City Civil Court, Chennai vide judgment dated 08.02.2024 in Crl.A.Nos.313, 314 and 312 of 2022, respectively, pending disposal of the above revisions.

2.The petitioners, who were arrayed as accused in C.C.Nos.4330, 4337 and 4328 of 2016, respectively on a private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, were convicted by the learned Metropolitan Magistrate, Fast Track Court-I, Allikulam, Chennai-03 by judgment dated 20.10.2022. First petitioner/A1 is the company and the second petitioner/A2 was sentenced to undergo two years simple imprisonment in each case and directed to pay double the



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in Crl.R.C.Nos.568, 569 and 570 of 2024*

cheque amount as compensation in each case. The sentences are directed to run concurrently in all the cases. Aggrieved against the same, the petitioners preferred an appeal before the learned XX Additional Sessions Judge, City Civil Court, Chennai in Crl.A.Nos.313, 314 and 312 of 2022, respectively. The learned Sessions Judge, by judgment dated 08.02.2024, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioners/accused filed Crl.R.C.Nos.568, 569 and 570 of 2024, respectively before this Court along with the instant miscellaneous petitions seeking suspension of sentence and bail.

3.The learned counsel for petitioners submitted that the petitioners had business transaction with the respondent and they also having running account. During the business transaction, some cheques were received by the respondent for which, according to the petitioners, liabilities discharged. There was some dispute in reconciliation of the accounts. In such circumstances, the respondent lodged three complaints against the petitioners on the cheques, which were given earlier, terming it as cheques given for the liability. The petitioners though probalised their defence, the trial Court as well the Lower Appellate Court failed to consider the same and not even



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adverted in its proper perspective. He further submitted that during the appeal, the second petitioner had deposited 20% of double the cheque amount in all three cases totaling to Rs.92,900/- before the trial Court. He further submitted that in the revision the point that the petitioners have probabalised their defence can be proved, which not considered by the Courts below. He further submitted that the petitioners have arguable points and fair chance of success in these revisions. He further submitted that to show his bonafide, the second petitioner is ready to further deposit Rs.1,39,350/- (Rupees One lakh Thirty Nine thousand Three hundred and Fifty only), which is 30% of double the cheque amount of Rs.2,32,250/- (in all three cases) to the credit of C.C.Nos.4330, 4337 and 4328 of 2016, respectively. The only apprehension is that by conviction warrant the petitioners would be put to unnecessary harassment. He further submitted that the offence faced by the petitioners is a bailable offence.

4.It is seen that already the petitioners had deposited 20% of double the cheque amount in all three cases, i.e., Rs.92,900/-, which is lying in the credit of C.C.Nos.4330, 4337 and 4328 of 2016. Today, the learned counsel filed a memo giving details about the deposit of 20% of double the cheque



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amount. The same is recorded. Now, the learned counsel undertakes to deposit Rs.1,39,350/- (30% of double the cheque amount) on or before 01.04.2024, in total Rs.2,32,250/- in effect the entire cheque amount deposited in C.C.Nos.4330, 4337 and 4328 of 2016.

5.Finding that the offence under Section 138 of Negotiable Instruments Act is a bailable offence and the petitioners have now come forward to deposit Rs.1,39,350/-, thereby the entire cheque amount stands deposited, this Court is inclined to suspend the sentence imposed on the petitioners.

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

(a) The petitioner/A2 is directed to deposit the amount of Rs.1,39,350/- (Rupees One lakh Thirty Nine thousand Three hundred and Fifty only) to the credit of C.C.Nos.4330, 4337 and 4328 of 2016, respectively, on the file of Metropolitan



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Magistrate, Fast Track Court-I, Allikulam,
Chennai-03, on or before 01.04.2024;

(b) On such payment, the petitioner/A2 is ordered to be enlarged 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 learned Metropolitan Magistrate, Fast Track Court-I, Allikulam, Chennai-03 within a period of two weeks thereafter;

(c) The respondent is at liberty to receive the amount of Rs.2,32,250/- deposited to the credit of C.C.Nos.4330, 4337 and 4328 of 2016, by filing appropriate petition/Memo. The trial Court without notice to the petitioners 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 cases;

(d) The petitioner/A2 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/A2 is directed to appear



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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 he is not able to appear before the Trial Court on that day, she 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.

7.Accordingly, these Criminal Miscellaneous Petitions are ordered.

22.03.2024
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To

- 1.The Metropolitan Magistrate,
Fast Track Court-I, Allikulam,
Chennai – 600 003.
- 2.The XX Additional Sessions Judge,
City Civil Court, Chennai.



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