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*Crl.M.P.No.13858 of 2024
in Crl.R.C.No.1677 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.13858 of 2024
in
Crl.R.C.No.1677 of 2024

R.Sudhagar

... Petitioner/Accused

Vs.

K.Sethikumar

... Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition filed under Section 438(1) of Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence of imprisonment imposed on the petitioner in the judgment made in C.A.No.42 of 2023 dated 30.11.2023 on the file of the learned Additional District Court (FTC), Villupuram confirming the judgment in S.T.C.No.822 of 2019 dated 02.03.2023 on the file of the Judicial Magistrate No.II, Villupuram sentencing to undergo 10 months simple imprisonment and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

For Petitioner : Ms.R.Madhu Bala

For Respondent : Mr.G.Pugazhenth

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 30.11.2023 made in C.A.No.42 of 2023 on the file of learned Additional District Judge, Fast Track Court, Villupuram confirming



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the judgment dated 02.03.2023 made in S.T.C.No.822 of 2019 on the file of learned Judicial Magistrate No.II, Villupuram and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

2.This Court, on 26.09.2024, had passed the following order:

“This petition is filed to condone the delay of 149 days in filing the above criminal revision.

2.The petitioner/accused was convicted by the trial Court in S.T.C.No.822 of 2019 on a private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act and sentenced to undergo 10 months simple imprisonment and to pay the cheque amount of Rs.10,00,000/- as compensation with interest rate at 9% per annum. Aggrieved against the same, the petitioner preferred an appeal in C.A.No.42 of 2023 before the learned Additional District Judge, Fast Track Court, Villupuram. The learned District Judge, by judgment dated 30.11.2023 dismissed the appeal confirming the conviction of the trial Court, against which, the present revision is filed.

3.Mr.G.Pugazhenth, learned counsel for respondent strongly objected for condonation of delay of 149 days for the reason that petitioner after suffering two concurrent findings and jail sentence against him, not taken any steps. With great difficulty conviction warrant executed and the petitioner was arrested on 11.07.2024. Thereafter only present petition has been filed.

4.The learned counsel for petitioner submitted that



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petitioner would ensure that 50% of the cheque amount, i.e., Rs.5,00,000/- deposited to the credit of S.T.C.No.822 of 2019 at the time of admission.

5.The learned counsel for respondent submitted that in the event of petitioner ensuring 50% of the cheque amount of Rs.5,00,000/- credited in S.T.C.No.822 of 2019, he has got no serious objection in condoning the delay.

6.In view of the same, the delay stands condoned and the petition is ordered.

7.Registry is directed to number the Criminal Revision Case, if it is otherwise in order and post the same for admission on 03.10.2024.

8.The petitioner to produce the proof of deposit of Rs.5,00,000/- before the Lower Court at the time of admission on 03.10.2024.”

3.In continuation and conjunction to the earlier order passed on 26.09.2024 in Crl.M.P.No.11818 of 2024 in Crl.R.C.SR.No.38490 of 2024, today, the learned counsel for petitioner produced the Demand Draft for a sum of Rs.5,00,000/-. The details of which are as follows:

Srl.No.	Demand Draft No.	Date	Amount
1.	439831 Drawn on Indian Overseas Bank, V.Muthupettai	10.10.2024	Rs.2,00,000/-
2.	439832 Drawn on Indian Overseas Bank,	10.10.2024	Rs.2,00,000/-



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Srl.No.	Demand Draft No.	Date	Amount
	V.Muthupettai		
3.	439833 Drawn on Indian Overseas Bank, V.Muthupettai	10.10.2024	Rs.1,00,000/-
		Total	Rs.5,00,000/-

The same has been deposited to the credit of S.T.C.No.822 of 2019 before the trial Court.

4.The learned counsel for petitioner further submitted that though there are several grounds on merits, without going on merits, petitioner is ready to deposit the balance amount of Rs.5,00,000/- within a period of two months. She further submitted that the petitioner was arrested on the conviction warrant and now he is confined in Central Prison, Cuddalore.

5.The learned counsel for the respondent/complainant is not seriously objecting for the same. His only endeavour is that the cheque amount of Rs.10,00,000/- to be paid and he may be permitted to withdraw the amount of Rs.5,00,000/-, which was already deposited before the trial Court and he is also not averse to grant two months time. He further submitted that on receipt of the balance amount, he is ready to file a petition under Section 147 of the



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Negotiable Instruments Act to compound the offence against the petitioner.

The learned counsel for petitioner has got no objection for the respondent to withdraw the amount of Rs.5,00,000/-.

6.In view of petitioner already deposited 50% of the cheque amount, i.e., Rs.5,00,000/- to the credit of S.T.C.No.822 of 2019 and the specific undertaking given by the petitioner that he is ready to deposit balance 50% of the cheque amount, i.e., Rs.5,00,000/- and also finding that the petitioner is confined in Central Prison, Cuddalore from 11.07.2024, the offence being a bailable offence and it is merely on technicality of dishonour of cheque, this Court is inclined to suspend the sentence imposed on the petitioner.

7.Accordingly, the substantial sentence of imprisonment imposed on the petitioner is suspended and bail is granted with the following conditions:

(i)The petitioner is directed to execute a personal bond before the Superintendent of Prison, Central Prison, Cuddalore and on execution of the same, the Superintendent of Prison, Central Prison, Cuddalore shall release the petitioner forthwith, if he is not required in any other case;

(ii)After coming out of the prison, the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) (50%



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of the cheque amount) to the credit of S.T.C.No.822 of 2019 on the file of Judicial Magistrate No.II, Villupuram or by way of Demand Draft directly to the respondent/complainant, within a period of two months from today;

(iii) Thereafter, the petitioner shall execute a bond for Rs.5,000/- with two sureties, each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Villupuram, within a period of 15 days from the date of release;

(iv) The respondent is permitted to withdraw the amount of Rs.5,00,000/- already deposited to the credit of S.T.C.No.822 of 2019 after filing appropriate petition before the trial Court. The trial Court can order withdrawal of the said amount without notice to the petitioner.

8. Accordingly, this Criminal Miscellaneous Petition is ordered.

9. Post the matter on 07.01.2025 'For Reporting Compliance' or for passing further orders.

14.10.2024

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
Neutral citation : Yes/No
rsi

Note: Issue order copy on 14.10.2024.

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To

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- 1.The Judicial Magistrate No.II,
Villupuram.
- 2.The Additional District Judge,
Fast Track Court, Villupuram.
- 3.The Superintendent,
Central Prison,
Cuddalore.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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