



Crl.M.P.No.17047 of 2023
in Crl.R.C.No.1801 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17047 of 2023
in Crl.R.C.No.1801 of 2023

R.Srimathi

... Petitioner

Vs.

V.R.Subramanian (Died)

Rep. By Legal Heir

Mr.Umapathy (Substituted by his son)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397(1) of Cr.P.C., to suspend the sentence imposed in C.C.No.207 of 2017 dated 13.02.2020 passed by the learned Judicial Magistrate, Fast Track Court, Alandur which was confirmed in Crl.A.No.22 of 2020 dated 16.06.2023 by the learned Principal District Sessions Judge, Chengalpattu, pending disposal of the criminal revision petition.

For Petitioner : Mr.G.Saravanakumar



WEB COPY



CrI.M.P.No.17047 of 2023
in CrI.R.C.No.1801 of 2023

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed on the petitioner/accused in CrI.A.No.22 of 2020 dated 16.06.2023 by the learned Principal District Sessions Judge, Chengalpattu confirming the judgment dated 13.02.2020 in C.C.No.207 of 2017 passed by the learned Judicial Magistrate, Fast Track Court, Alandur and enlarge the petitioner on bail pending disposal of the above revision.

2.It is the case of the respondent that towards discharge of her liability, the petitioner had issued three cheques for a total sum of Rs.7,00,000/-; that when the cheques were presented for collection, it was returned for the reason “Insufficient Funds” and that in spite of statutory notice issued by the respondent, the petitioner failed to make the payment.

3.The petitioner was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six



CrI.M.P.No.17047 of 2023
in CrI.R.C.No.1801 of 2023

WEB COPY

months simple imprisonment and to pay a sum of Rs.7,00,000/- as compensation to the respondent within 30 days, in default, to undergo thirty days simple imprisonment under Section 357(3) of Cr.P.C. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4.The learned counsel for the petitioner would submit that the petitioner had rebutted the statutory presumption and had established the fact that the respondent had misused the cheques; that there was no privity of contract between the petitioner and the respondent; that she had already deposited 20% of the cheque amount pending appeal and to show her bonafides, she is willing to deposit 20% of the cheque amount within a period of four weeks.

5.Considering the above submissions made by the learned counsel for the petitioner and in view of the fact that the petitioner is willing to deposit 20% of the cheque amount, this Court is inclined to suspend the sentence on the following conditions till the disposal of the criminal revision case.



CrI.M.P.No.17047 of 2023
in CrI.R.C.No.1801 of 2023

WEB COPY

(i) The petitioner/accused is directed to deposit 20% of the cheque amount i.e., Rs.1,40,000/- [Rupees One Lakh Forty Thousand only] to the credit of C.C.No.207 of 2017 before the Trial Court, within a period of four weeks from the date of receipt of a copy of this order;

(ii) On such deposit being made, the trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case;

(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioner/accused shall be suspended, on his executing a bond a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Fast Track Court, Alandur;

(iv) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(v) The petitioner shall appear before the trial Court on the first



CrI.M.P.No.17047 of 2023
in CrI.R.C.No.1801 of 2023

WEB COPY

working day of every month at 10.30 a.m. until the disposal of the revision 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 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; and

(vi) 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.In the result, the criminal miscellaneous petition is ordered.

17.12.2024
(2/2)

cse



WEB COPY



CrI.M.P.No.17047 of 2023
in CrI.R.C.No.1801 of 2023

SUNDER MOHAN, J.

cse

CrI.M.P.No.17047 of 2023
in CrI.R.C.No.1801 of 2023

17.12.2024
(2/2)