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*Crl.M.P.Nos.15050 & 15052 of 2024
in Crl.R.C.No.1830 of 2024*

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in
Crl.R.C.No.1830 of 2024

M. NIRMAL KUMAR, J.

These Criminal Miscellaneous Petitions have been filed by the petitioner, seeking to suspend the sentence imposed on the revision petitioner/accused in S.T.C.No.335 of 2018 dated 08.08.2022 by the learned Judicial Magistrate, Fast Track at Magisterial Level, Tiruppur and confirmed by the learned Principal Sessions Judge at Tiruppur in C.A.No.107 of 2022 on 23.08.2024 and enlarge the petitioner on bail pending disposal of the above revision and to exempt the petitioner from surrendering before the trial court pending disposal of the above revision.

2.The petitioner/Accused in S.T.C.No.335 of 2018 was convicted by the trial Court by judgment dated 08.08.2022 on a private complaint filed by the respondent for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.7,00,000/- as compensation, in default, to undergo one month simple imprisonment. Aggrieved against the conviction, the



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petitioner preferred an appeal in C.A.No.107 of 2022 before the learned Principal Sessions Judge, Tiruppur. The learned Sessions Judge, by judgment dated 23.08.2024, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioner preferred a revision in Crl.R.C.No.1830 of 2024 before this Court along with the instant miscellaneous petitions seeking suspension of sentence, exemption from surrender and bail.

3.During trial, on the side of the prosecution, PW1 and PW2 examined and marked Exs.P1 to P5. On the side of the defence, DW1 examined and no documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had convicted the petitioner as stated above, which was confirmed by the Lower Appellate Court.

4.The learned counsel for petitioner submitted that there was a business dispute between the petitioner and respondent and the cheque, which was given as security, has been misused and a complaint filed but both the Courts below failed to consider the same. In fact, the petitioner examined



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one Hariprasath to prove the fact that the cheque was not issued in discharge of any liability. He further submitted that during the pendency of the appeal, the petitioner deposited 20% of the cheque amount, i.e., Rs.1,40,000/- to the credit of S.T.C.No.335 of 2018. Now, the petitioner is ready to deposit 30% of the cheque amount, i.e., Rs.2,10,000/- before the trial Court within a period of three weeks. Hence, he prays for granting suspension of sentence to the petitioner.

5.In view of the specific undertaking given by the petitioner that he is ready to deposit 30% of the cheque amount, i.e., Rs.2,10,000/- before the trial Court within a period of three weeks and 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.

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

- (a) The petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond



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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

(b) At the time of executing sureties the petitioner is directed to produce the proof of payment of 30% of the cheque amount, i.e., Rs.2,10,000/-.

(c) The petitioner shall appear before the Trial Court on the first working day of a 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 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.

(d) It is made clear that no extension of time would be granted. In the event of failure to deposit 30% of the cheque amount, this order would stand automatically cancelled.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.



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8. Notice to the respondent returnable by 19.11.2024. Private notice is also permitted.

29.10.2024
(2/2)

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To

1. The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Tiruppur.
2. The Principal Sessions Judge,
Tiruppur.
3. The Public Prosecutor,
High Court, Madras.



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