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CrI.M.P.No.14240 of 2024
in CrI.R.C.No.1727 of 2024

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SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed in the judgment dated 07.10.2021 made in C.C.No.3730 of 2013 on the file of the Court of Metropolitan Magistrate cum Fast Track Judge No.1, Egmore at Allikulam, Chennai and confirmed in the judgment dated 13.04.2023 made in C.A.No.176 of 2021 on the file of the 18th Additional District and Sessions Court, Chennai pending disposal of the appeal.

2.It is the case of the respondent/complainant that the petitioner had issued a cheque for Rs.18,75,000/- towards discharge of his liability; that when the cheque was presented for collection, the same was dishonoured for the reason “Insufficient Funds” and that in spite of statutory notice issued by the respondent, the petitioner failed to make the payment.



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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 months simple imprisonment and to pay the cheque amount of Rs.18,75,000/- along with interest @ 9% as compensation to the respondent within a period of eight weeks from the date of judgment, 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 there are several arguable points in the above revision which requires consideration; that there are admissions made by P.W.1 which rebuts the statutory presumption under Section 139 of the Negotiable Instruments Act and that the petitioner to show his bonafide,, had already deposited 30% of the compensation amount to the credit of C.C.No.3730 of 2013 as directed by this Court by order dated 22.10.2024 and proof of payment was also produced.



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5. Notice sent to the respondent is yet to be served.

6. Considering the fact that the petitioner has raised substantial points which require consideration in the revision and the fact that the petitioner has already deposited 20% of the compensation amount when the case was pending before the Lower Appellate Court and he has also deposited 30% of the compensation amount additionally to the credit of C.C.No.3730 of 2013, this Court is inclined to suspend the sentence on the following conditions till the disposal of the criminal revision case.

(i) The petitioner 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 cum Fast Track Judge No.1, Egmore at Allikulam, Chennai;



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(ii) The trial Court shall redeposit the amount already deposited by the petitioner 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) 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;

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



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(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.

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