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*Crl.M.P.Nos.15516 & 15518 of 2024
in Crl.R.C.No.1895 of 2024*

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SUNDER MOHAN, 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.110 of 2021 dated 16.10.2023 by the learned District Munsif-cum-Judicial Magistrate, Kotagiri and confirmed by the learned Sessions Judge, Nilgiris at Udhagamandalam in C.A.No.80 of 2023 on 18.04.2024 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.110 of 2021 was convicted by the trial Court by judgment dated 16.10.2023 on a private complaint filed by the respondent for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.7,30,000/- as compensation, which is payable within two months from the date of the judgment, in default, to undergo one month simple imprisonment. Aggrieved against the conviction, the petitioner



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preferred an appeal in C.A.No.80 of 2023 before the learned Court of Sessions Division of the Nilgiris District at Udhagamandalam. The learned Sessions Judge, by judgment dated 18.04.2024, 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.1895 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 to PW3 were examined and Exs.P1 to P7 were marked. On the side of the defence, DW1 to DW3 were examined and no document was 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 the petitioner is not due to pay the sum of Rs.7,30,000/- being the cheque amount and only a portion of the amount is payable and that the respondent ought not to have deposited the cheque for Rs.7,30,000/-; that now the petitioner is ready to



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deposit Rs.3,00,000/- before the trial Court and prayed for granting suspension of sentence to the petitioner.

5. Mr.L.Mouli takes notice for the first respondent and would submit that the said amount of Rs.3,00,000/- may be paid to the respondent.

6. Considering the submissions made by the learned counsel for either side, this Court is of the considered view that the revision can be admitted and the sentence imposed on the petitioner can be suspended.

7. 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 pay a sum of Rs.3,00,000/- to the respondent

(b) 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 trial Court



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(c) At the time of executing sureties, the petitioner is directed to produce the proof of payment of Rs.3,00,000/- to the respondent

(d) 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.

(e) In the event of failure to pay Rs.3,00,000/- to the respondent, this order would stand automatically cancelled.

8. Accordingly, these Criminal Miscellaneous Petitions are ordered.

07.11.2024
(2/2)

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Note : Issue order copy by 07.11.2024



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rgr

To

- 1.The District Munsif cum Judicial Magistrate,
Kotagiri.
- 2.The Sessions Judge,
The Nilgiris at Udhagamandalam.
- 3.The Public Prosecutor,
High Court, Madras.

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