



WEB COPY

*Crl.M.P.Nos.14318 & 14323 of 2024
in Crl.R.C.No.1781 of 2023*



Crl.M.P.Nos.14318 & 14323 of 2024
in
Crl.R.C.No.1781 of 2023

SUNDER MOHAN, J.

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioners/accused by judgment dated 10.01.2018 passed in STC No.3402 of 2014 by the learned Judicial Magistrate No.1, Pollachi, and confirmed by the judgment dated 23.06.2023 in C.A.No.57 of 2018 by the learned IV Additional District and Sessions Judge, Coimbatore and enlarge the 2nd petitioner on bail and to exempt him from surrendering before the trial Court, pending disposal of the above revision.

2. It is the case of the respondent/complainant that towards discharge of their liability, the petitioners issued a cheque for Rs.6,68,750/- and when the said cheque was presented for collection, the same was returned for the reason 'Account Closed' and inspite of the statutory notice, the petitioners did not pay the cheque amount.

3. The 1st petitioner/1st accused is the firm, represented by 2nd petitioner/2nd accused and 2nd petitioner/A2 was convicted by the trial



WEB COPY

Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay Rs.6,68,750/- as compensation to the complainant, in default to undergo simple imprisonment for three months. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4. The learned counsel for the petitioners would submit that the petitioners have rebutted the statutory presumption; that the respondent had not established his capacity to lend such a huge sum to the petitioners and in order to show his bonafides, the 2nd petitioner/A2 would deposit 50% of the cheque amount within a period of four weeks from the date of receipt of a copy of this order.

5. Heard the learned counsel for the respondent.

6. Considering the submissions made by the learned counsel for the petitioners and the fact that the revision has been admitted and the petitioners have raised arguable points in the revision, which requires consideration, this Court is inclined to suspend the sentence imposed on the 2nd petitioner/A2 and exempt him from surrendering before the trial



7. Accordingly, these Criminal Miscellaneous Petition are allowed
the sentence imposed upon the 2nd petitioners/A2 by the trial Court, is
ended and is exempted from surrendering before the trial Court on
following conditions:

(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;

(iv) The 2nd petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond



WEB COPY



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 2nd 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

(vi) On the failure of the petitioners/accused, depositing the said amount, it is open to the trial Court to commit the petitioners/accused into custody for undergoing the sentence.

19.11.2024

ars

To

- 1.The IV Additional District and Sessions Judge, Coimbatore.
- 2.The Judicial Magistrate No.I, Pollachi
- 3.The Public Prosecutor, High Court, Madras.



WEB COPY



*Crl.M.P.Nos.14318 & 14323 of 2024
in Crl.R.C.No.1781 of 2023*

SUNDER MOHAN, J.

ars

**Crl.M.P.Nos.14318 & 14323 of 2024
in Crl.R.C.No.1781 of 2023**

19.11.2024