



Crl.M.P.Nos.14607 and 14608 of 2024 in Crl.RC.No.1777 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl.M.P.Nos.14607 and 14608 of 2024**  
**in Crl.RC.No.1777 of 2024**

Thiru S Prakash

... Petitioner/Sole Accused  
in both Crl MPs

Vs.

Tmt.M.Umarani  
W/o. Madhavaraj  
No.385/7, Ayyasamy Kadu,  
Annavaithiyar Street,  
Kalampatty Main Road,  
Salem – 636 015

... Respondent  
in both Crl MPs

COMMON PRAYER: Criminal Miscellaneous Petitions filed under Section 430 of BNSS, to suspend the sentence imposed on the petitioner in CA No.47 of 2023 dated 08.10.2024 on the file of the learned I Additional District and Sessions Judge, Salem dated 01.12.2023 confirming the Conviction and Sentence passed by the Special Judicial Magistrate (Land Grabbing cases), Salem in STC No.278 of 2018 dated 14.02.2023 and enlarge the petitioner on bail and to exempt the petitioner from surrendering before the trial court, pending disposal of the Criminal Revision case.

For Petitioner : Mr.J.Franklin  
in both Crl MPs



WEB COPY



Crl.M.P.Nos.14607 and 14608 of 2024 in Crl.RC.No.1777 of 2024

For Respondent : Dr.C.E.PRatap  
in both Crl MPs Government Advocate [Crl. Side]

### ORDER

These Criminal Miscellaneous Petition have been filed seeking to suspend the sentence imposed on the petitioner in CA No.47 of 2023 dated 08.10.2024 on the file of the learned I Additional District and Sessions Judge, Salem dated 01.12.2023 confirming the Conviction and Sentence passed by the Special Judicial Magistrate (Land Grabbing cases), Salem in STC No.278 of 2018 dated 14.02.2023 and enlarge the petitioner on bail and to exempt the petitioner from surrendering before the trial court, pending disposal of the above revision.

2. It is the case of the respondent that the petitioner had borrowed a sum of Rs.14,00,000/- and towards the discharge of said debt, he gave three cheques totally for a sum of Rs.14,00,000/-; that when the cheques were presented for collection, the same has been returned with an endorsement “funds insufficient” and that inspite of the statutory notice, the petitioner did not make the payment and hence, he is liable for the offence under Section 138 of the Negotiable Instruments Act.



3. The petitioner, who is the sole accused in the above Sessions

Case, was convicted and sentenced as follows:

| Offence under Section                 | Sentence imposed                                                                                                                                                            |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 138 of the Negotiable Instruments Act | To undergo imprisonment for one year and to pay the cheque amount of Rs.14,00,000/- within three months from the date of judgement to the complainant towards compensation. |

4. Heard Mr.J.Franklin, learned counsel for the petitioner and Dr.C.E.Pratap Government Advocate (Crl.Side) appearing for the State.

5. The learned counsel for the petitioner would submit that both the Courts below had erroneously convicted the petitioner without considering whether the petitioner had borrowed a sum of Rs.14,00,000/- by way of cash and that the respondent had not produced any document to prove the debt and that since the respondent is related to the petitioner, she had misused the cheques and that the petitioner had already deposited 20% of the cheque amount during the pendency of the appeal and is willing to deposit 30% of the cheque amount to prove his bonafide.

6. This Court finds that the points raised by the petitioner



requires consideration in the Criminal Revision case and the question as to whether the cheque is supported by consideration, has to be examined.

Further, the petitioner is willing to deposit 30% of the cheque amount.

7. Accordingly, these Criminal Miscellaneous Petitions are allowed and till the disposal of the Criminal Revision case, the sentence imposed upon the petitioner/accused and exempt the petitioner from surrendering before the trial Court, is suspended on the following conditions:

(i) The petitioner/accused is directed to deposit 30% of the cheque amount i.e., Rs.4,20,000/- [Rupees Four Lakhs Twenty thousand Only], 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 re-deposit 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 I



Additional District and Sessions Judge, Salem;

(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 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.

**07.11.2024**

rka

**Issue order copy by 19.11.2024**

**Upload the order copy forthwith.**



WEB COPY

To

Crl.M.P.Nos.14607 and 14608 of 2024 in Crl.RC.No.1777 of 2024

SUNDER MOHAN, J.

rka

1. I Additional District and Sessions Judge, Salem
2. Special Judicial Magistrate (Land Grabbing cases), Salem
3. The Public Prosecutor,  
Madras High Court.

Crl.M.P.Nos.14607 & 14608 of 2024  
in Crl.RC.No.1777 of 2024

07.11.2024