



Crl.M.P.No.16167 of 2024 in Crl.R.C.No.1984 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 on the petitioner/accused in Crl.A.No.69 of 2022 dated 30.08.2024 by the learned District and Sessions Judge, Tirupattur confirming the judgment dated 06.04.2022 in S.T.C.No.472 of 2017 passed by the learned Judicial Magistrate, Vaniyambadi and enlarge the petitioner on bail pending disposal of the above revision.

2.It is the case of the respondent/complainant that the petitioner had obtained hand loan of Rs.1,30,000/- from the respondent; that towards the discharge of the liability, the petitioner had issued a cheque; that when the cheque was presented for collection, the same was returned for the reason “Insufficient Funds” and that in spite of statutory notice issued by the respondent, the petitioner did not make any payment.



3.The petitioner was convicted by the Trial Court for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo six months simple imprisonment and to pay twice the cheque amount as compensation of Rs.2,60,000/- within two month under Section 357(3) of Cr.P.C. and in default to undergo two months simple imprisonment. 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 is improbability in the complaint itself; that according to the complainant, the loan was taken on 08.03.2017 and the cheque is said to have been issued on the very same day and the same was deposited on the very same day; that the respondent had misused the cheque which was given for security purpose for a chit transaction; and that the petitioner was one of the subscribers. He would further submit that the petitioner to show his bonafide, would deposit Rs.40,000/- before the Trial Court.

5.Considering the above submissions made by the learned counsel for



the petitioner and the fact that the substantial grounds have been raised in the revision which requires consideration, this Court grants the relief of suspension of sentence on the following conditions till the disposal of the criminal revision case.

(i)The petitioner/accused is directed to deposit Rs.40,000/- (Rupees Forty Thousand only] to the credit of S.T.C.No.472 of 2017 before the Trial Court, 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 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;

(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 Judicial Magistrate, Vaniyambadi;



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(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.

6.In the result, the criminal miscellaneous petition is ordered.



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