



WEB COPY



Crl.M.P.No.17525 & 17527 of 2024
in Crl.R.C.Nos.2246 & 2247 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17525 & 17527 of 2024
in
Crl.R.C.Nos.2246 & 2247 of 2024

Crl.M.P.No.17525 of 2024 in Crl.R.C.No.2246 of 2024:

M.Hemalatha ... Petitioner/A1 in both cases
Vs.

C.Thirugnanam (died)
rep. by Chitharanjan ... Respondent in both cases

PRAYER in Crl.M.P.No.17525 of 2024: Criminal Miscellaneous Petition filed under Section 438 (1) of BNSS, to suspend the sentence imposed on the petitioner by judgment dated 13.07.2022 passed in C.C.No.2488 of 2013 by the learned Metropolitan Magistrate, Fast Track Court No.IV, Chennai, and modified by judgment dated 27.09.2024 made in C.A.No.89 of 2023 by the learned XIX Additional Judge, City Civil Court, Chennai, on till the disposal of above Criminal Revision Revision.

Crl.M.P.No.17527 of 2024 in Crl.R.C.No.2247 of 2024:

1. M.Hemalatha
2. P.Murugan ... Petitioners/A1 & A2
in both cases
Vs.

C.Thirugnanam (died)
rep. by Chitharanjan ... Respondent in both cases



Crl.M.P.No.17525 & 17527 of 2024
in Crl.R.C.Nos.2246 & 2247 of 2024

PRAYER in Crl.M.P.No.17527 of 2024: Criminal Miscellaneous Petition filed under Section 438 (1) of BNSS, to suspend the sentence imposed on the petitioner by judgment dated 13.07.2022 passed in C.C.No.2488 of 2013 by the learned Metropolitan Magistrate, Fast Track Court No.IV, Chennai, and modified by judgment dated 27.09.2024 made in C.A.No.61 of 2023 by the learned XIX Additional Judge, City Civil Court, Chennai, on till the disposal of above Criminal Revision Revision.

For petitioner : Mr.S.F.Mohamed Yousuf
in both cases

ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner/A1 by judgment dated 13.07.2022 passed in C.C.No.2488 of 2013 by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, and modified by common judgment dated 27.09.2024 in C.A.Nos.61 & 89 of 2023, by the learned XIX Additional Judge, City Civil Court, Chennai, pending disposal of the Criminal Revision Case.

2. It is the case of the respondent/complainant that towards discharge of liability, relating to purchase of dhal from the respondent, the petitioners had issued two cheques viz., for Rs.7,00,000/- and the other for Rs.6,26,934/- totalling to Rs.13,26,934/- to the respondent and



Crl.M.P.No.17525 & 17527 of 2024
in Crl.R.C.Nos.2246 & 2247 of 2024

when the said cheques were presented for collection, the same were returned for the reason 'Insufficient Funds' and inspite of the statutory notice, the petitioners did not pay the cheque amount.

3. The 1st petitioner/A1 was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for three months and to pay Rs.13,26,934/- as compensation to the complainant. The 2nd petitioner/A2 in Crl.M.P.No.17527 of 2024 in Crl.R.C.No.2247 of 2024, was acquitted by the trial Court.

4. Challenging the above conviction and sentence, the 1st petitioner/A1 preferred Crl.A.No.89 of 2023 and seeking enhancement of the punishment and compensation amount imposed on A1 and acquittal of A2, the respondent preferred Crl.A.No.61 of 2023 against both accused. The appellate Court, vide common judgment dated 27.09.2024 dismissed the appeal filed by the petitioner/accused and allowed the appeal filed by respondent, enhancing the sentence imposed on the 1st petitioner/A1 from three months SI to one year SI. Acquittal of A2 and compensation awarded by the trial Court were confirmed.



Crl.M.P.No.17525 & 17527 of 2024
in Crl.R.C.Nos.2246 & 2247 of 2024

WEB COPY

5. Aggrieved by the above judgment of the appellate Court, the petitioners/accused has preferred Crl.R.C.Nos.2246 & 2247 of 2024 and pending revisions have sought for suspension of sentence in these Criminal Miscellaneous Petitions.

6. Though, the 2nd petitioner/A2 in Crl.R.C.No.2247 of 2024 was acquitted by the trial Court, it is not known as to why he was shown as a petitioner in the suspension of sentence petition. ***Hence, Crl.M.P.No.17527 of 2024 in Crl.R.C.No.2247 of 2024, in so far as A2 is concerned, is dismissed as unnecessary.***

7. The learned counsel for the petitioner/A1 submitted that even according to the complaint, the purchase was made in the year of 2010 and the cheques were issued in the year 2013; that the evidence adduced before the trial Court would reveal that the cheques were given as security; that the petitioner is not liable to pay the cheque amount; that the petitioner has rebutted the statutory presumption; that the petitioner has already deposited 20% of the cheque amount i.e. Rs.2,65,387/- as ordered by the trial Court, while suspending the sentence imposed upon



CrI.M.P.No.17525 & 17527 of 2024
in CrI.R.C.Nos.2246 & 2247 of 2024

the petitioner; that to show her *bona fides*, she is willing to deposit further sum equivalent to 20% of the cheque amount; and prayed for suspension of sentence.

8. Considering the fact that there are arguable points raised in the revision; that the revision is not likely to be taken up in the near future; and that the petitioner/A1 is willing to deposit 20% of the cheque amount, this Court is inclined to suspend the sentence imposed on the petitioner herein/A1.

9. Accordingly, these Criminal Miscellaneous Petitions are allowed and till the disposal of the Criminal Revision cases, the sentence imposed upon the petitioner/A1 by the trial Court, is suspended on the following conditions:

(i) The petitioner/A1 shall deposit 20% of the compensation amount i.e., Rs.2,65,387/- [Rupees Two Lakhs Sixty Five Thousand Three Hundred and Eighty Seven Only), to the credit of C.C.No.2488 of 2013 on the file of the learned Metropolitan Magistrate, FTC-IV, George Town Chennai, within a period of four weeks from the date of receipt of a copy of this order;



CrI.M.P.No.17525 & 17527 of 2024
in CrI.R.C.Nos.2246 & 2247 of 2024

WEB COPY

(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 Cases;

(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioner/A1 shall be suspended, on her executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Metropolitan Magistrate, FTC-IV, George Town Chennai;

(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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court; and



CrI.M.P.No.17525 & 17527 of 2024
in CrI.R.C.Nos.2246 & 2247 of 2024

(vi) On the failure of the petitioner/A1, depositing the said amount, it is open to the trial Court to commit the petitioner/accused into custody for undergoing the sentence.

WEB COPY

11.12.2024

ars

Issue order copy by 16 .12.2024

Upload the order copy forthwith.



WEB COPY



CrI.M.P.No.17525 & 17527 of 2024
in CrI.R.C.Nos.2246 & 2247 of 2024

SUNDER MOHAN, J.

ars

To

1.The Metropolitan Magistrate,
Fast Track Court No.IV, Chennai.

2.The XIX Additional Judge,
City Civil Court, Chennai.

CrI.M.P.No.17525 & 17527 of 2024
in CrI.R.C.Nos.2246 & 2247 of 2024



WEB COPY



CrI.M.P.No.17525 & 17527 of 2024
in CrI.R.C.Nos.2246 & 2247 of 2024

11.12.2024