



Crl.M.P.Nos.15170 & 15587 of 2024
in Crl.R.C.No.1848 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 petitioner/accused in Crl.A.No.11 of 2022 dated 16.07.2024 by the learned Principal District and Sessions Judge, Ariyalur confirming the judgment dated 10.08.2022 in S.T.C.No.425 of 2019 passed by the learned District Munsif cum Judicial Magistrate, Sendurai, Ariyalur District 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.It is the case of the respondent/complainant that the petitioner borrowed a sum of Rs.10,00,000/- from the complainant as hand loan in the presence of two witnesses and towards discharge of the said loan, the petitioner had issued a cheque dated 06.06.2014; that when the cheque was



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presented for collection, the same was dishonoured for the reason “Insufficient Funds” and that in spite of statutory notice issued by the respondent, the petitioners failed to make the payment.

3.The petitioner was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay a compensation of Rs.11,00,000/-, the amount due upon the cheque along with Rs.1,00,000/- as compensation, which the complainant is entitled to get as compensation 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 the petitioner and the respondent are closely related to each other; that the respondent has not established his capacity to lend a sum of Rs.10,00,000/- and that the respondent due to family dispute had misused the cheque which was given as security for some other purpose; and the learned counsel would



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further submit that the petitioner is ready to deposit 20% of the cheque amount within a period of four weeks to show his bonafide.

5.Considering the above submissions made by the learned counsel for the petitioner and the points raised by him requires consideration in the above revision, this Court is inclined to suspend the sentence and exempt the petitioner from surrender before the Trial Court on the following conditions till the disposal of the criminal revision case.

(i) The petitioner/accused is directed to deposit 20% of the cheque amount *i.e.*, Rs.2,00,000/- [Rupees Two Lakhs 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 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;



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(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 District Munsif cum Judicial Magistrate, Sendurai, Ariyalur District;

(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



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(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 petitions are ordered.

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