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Crl.M.P.Nos.15861 & 15863 of 2024  
in Crl.R.C.No.1937 of 2024

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SUNDER MOHAN, J.

These Criminal Miscellaneous Petitions have been filed by the petitioners, seeking to suspend the sentence imposed on the petitioner/accused in Crl.A.No.31 of 2020 dated 15.03.2024 by the learned II Additional District and Sessions Judge, Tiruppur confirming the judgment dated 09.09.2020 in S.T.C.No.3458 of 2016 passed by the learned Judicial Magistrate, Palladam 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 first petitioner Firm obtained a hand loan of Rs.15,00,000/- to develop their business and assured to return the same within two months; that the 2<sup>nd</sup> petitioner had issued postdated cheques for various amounts and that the subject cheque for Rs.10,00,000/-; that when the cheque was presented for collection on 27.11.2013, the same was dishonoured for the reason “Funds Insufficient”



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and that in spite of statutory notice issued by the respondent, the petitioners failed to make the payment.

3.The learned Judicial Magistrate, Palladam (Trial Court) convicted the petitioners for offence under Section 138 of the Negotiable Instruments Act, 1881, by judgment, dated 09.09.2020 in S.T.C.No.3458 of 2016 and the 2<sup>nd</sup> petitioner was sentenced to undergo Simple Imprisonment for one year and the petitioners were directed to pay the cheque amount of Rs.10,00,000/- as compensation to the respondent. Challenging the judgment of the Trial Court, the petitioners preferred an appeal before the learned II Additional District and Sessions Judge, Tiruppur (Lower Appellate Court) in Crl.A.No.31 of 2020 and the same was dismissed by judgment, dated 15.03.2024 confirming the judgment of the Trial Court.

4.The learned counsel for the petitioners would submit that the respondent had not established his source of income to give a loan of Rs.15,00,000/- by cash; that the petitioners had issued a notice on the next day of presentation of cheque that it was misused for which the respondent



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had not sent any reply and there are arguable points in the above revision which requires consideration. The learned counsel would further submit that the 2<sup>nd</sup> petitioner is ready to deposit 40% 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 petitioners that the cheque was misused by the respondent which requires consideration in the above revision and in view of the offer to deposit 40% of the cheque amount, this Court is inclined to suspend the sentence and exempt the petitioners from surrendering before the Trial Court on the following conditions till the disposal of the criminal revision case.

(i) The 2<sup>nd</sup> petitioner/accused is directed to deposit 40% of the cheque amount *i.e.*, Rs.4,00,000/- [Rupees Four 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



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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 2<sup>nd</sup> 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, Palladam;

(iv) The 2<sup>nd</sup> 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 2<sup>nd</sup> 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



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absence, as directed by the trial Court; and

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(vi) On the failure of the 2<sup>nd</sup> petitioner/accused, depositing the said amount, it is open to the trial Court to commit the 2<sup>nd</sup> petitioner/accused into custody for undergoing the sentence.

6.In the result, the criminal miscellaneous petitions are ordered.

18.11.2024  
(2/2)

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