



Crl.M.P.Nos.16195 & 16196 of 2024 in Crl.R.C.Nos.1990 of 2024

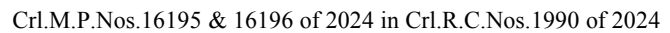
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SUNDER MOHAN, J.

These Criminal Miscellaneous Petitions have been filed by the petitioners, seeking to suspend the sentence imposed on the petitioners/accused in Crl.A.No.18 of 2021 dated 16.08.2024 by the learned District Judge, Mayiladuthurai confirming the judgment dated 31.08.2021 in C.C.No.25 of 2014 passed by the learned Fast Track Judicial Magistrate, Mayiladuthurai and enlarge the petitioners on bail pending disposal of the above revisions and to exempt the petitioners from surrendering before the Trial court, pending disposal of the above revisions.

2.It is the case of the respondent/complainant that the petitioners 2 and 3 had borrowed a sum of Rs.5,00,000/- from the respondent and towards discharge of the said liability including interest, the petitioners 2 and 3 had issued two cheques one for a sum of Rs.5,00,000/- and another for a sum of Rs.1,00,000/-; that when the said cheques were presented for



3.The petitioners 2 and 3 were convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo three months simple imprisonment and to pay compensation of Rs.1,00,000/- to the respondent within two months 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 petitioners would submit that the Trial Court and the Lower Appellate Court on facts found that the petitioners 2 and 3 had paid nearly Rs.5,00,000/- to the respondent after filing of the complaint and hence directed the petitioners 2 and 3 to pay compensation of Rs.1,00,000/- being the balance cheque amount; and that the Courts below had ignored the evidence let-in on the side of the petitioners to show that the entire loan amount has been discharged. He would further submit that in



order to show their bonafides, the petitioners 2 and 3 are willing to deposit Rs.75,000/- before the Trial Court.

5.Considering the above submissions made by the learned counsel for the petitioners and in view of the fact that the petitioners 2 and 3 are willing to deposit Rs.75,000/-, this Court grants the relief of suspension of sentence and exemption from surrendering before the Trial Court on the following conditions till the disposal of the criminal revision case.

(i)The petitioners 2 and 3 are directed to deposit Rs.75,000/- [Rupees Seventy Five Thousand only] to the credit of C.C.No.25 of 2014 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;



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(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioners 2 and 3 shall be suspended, on their executing a bond a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Fast Track Judicial Magistrate, Mayiladuthurai;

(iv) The petitioners 2 and 3 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 petitioners 2 and 3 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, they 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 their absence, as directed by the trial Court; and



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(vi)On the failure of the petitioners 2 and 3, depositing the said amount, it is open to the trial Court to commit the petitioners 2 and 3 into custody for undergoing the sentence.

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

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