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Crl.M.P.No.16700 of 2024
in Crl.R.C.No.2079 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 in the judgment dated 06.02.2020 made in S.T.C.No.456 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Erode and confirmed in the judgment dated 14.08.2024 made in C.A.No.47 of 2020 on the file of the learned Principal Sessions Judge, Erode, pending disposal of the appeal.

2.The respondent filed a complaint alleging that the petitioner had issued a cheque for Rs.3,50,000/- towards discharge of his liability; that when the cheque was presented for collection, the same was dishonoured for the reason “Insufficient Funds” and that in spite of statutory notice issued by the respondent, the petitioner failed to make the payment.

3.The petitioner was convicted by the trial Court for the offence under



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Section 138 of the Negotiable Instruments Act and sentenced to undergo three months simple imprisonment and to pay a sum of Rs.3,50,000/- as compensation to the respondent, in default to under one month simple imprisonment, under Section 357(3) of Cr.P.C.. The Lower Appellate Court dismissed the appeal for non-prosecution since the petitioner did not appear for four hearings.

4.Heard the learned counsel appearing on behalf of the petitioner.

5.It is well settled that the appeal cannot be dismissed for non-prosecution even if the appellant was absent for several hearings and the Court has to adjudicate the appeal on merits. Hence, this Court is inclined to suspend the sentence on the following conditions till the disposal of the criminal revision case.

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.1, Erode;

(ii) The petitioner and the sureties shall affix their photographs and



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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;

(iii) 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.

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

28.11.2024

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SUNDER MOHAN, J.

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