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*Crl.M.P.Nos.16834 & 16837 of 2024
in Crl.R.C.No.2115 of 2024*

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SUNDER MOHAN, J.

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the revision petitioner / accused by the learned Principal District and Sessions Judge, Kancheepuram in C.A.No.5 of 2023 dated 29.08.2024 as confirmed by the judgment passed by the learned Judicial Magistrate – II, Kancheepuram in C.C.No.33 of 2019 dated 06.03.2023 and enlarge the petitioner on bail, pending disposal of the above Criminal Revision.

2. It is the case of the respondent that towards discharge of petitioner's liability, he had issued two cheques totally for a sum of Rs.19,00,000/- and that when the said cheques were presented for collection, it was returned for the reason "funds insufficient" and inspite of statutory notice, the petitioner did not make any payment.

3. The learned counsel for the petitioner would submit that the petitioner has rebutted the statutory presumption and the complainant had



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not established his capacity to lend a sum of Rs.19,00,000/-; and that he had already deposited 20% of the cheque amount to the credit of C.C.No.33 of 2019 before the trial court, during the pendency of the appeal; and that to show his bonafides, he is willing to deposit 30% of the cheque amount, in addition to the amount already deposited and prayed for suspension of sentence.

4. Heard the learned counsel for the petitioner and perused the records.

5. Considering the fact that the petitioner has raised substantial grounds in the revision which requires consideration; and that he is willing to deposit 30% of the cheque amount, in addition to the amount already deposited, this court is inclined to admit the revision and grant suspension of sentence and exempt the petitioner from surrendering before the trial court, on the following conditions, till the disposal of the above Criminal Revision:

(i) The petitioner is ordered to be enlarged on bail, on condition that the petitioner shall deposit 30% of the cheque amount, i.e.Rs.5,70,000/- (Rupees Five Lakhs Seventy Thousand only) to the credit of C.C.No.33 of 2019 on the file of the Judicial Magistrate No.II,



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Kancheepuram, 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.

(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 trial court.

(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 a month at 10.30 a.m., until the disposal of the revision and if he is not able to



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appear before the Trial Court on that 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.

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

6. Accordingly, these Criminal Miscellaneous Petitions are ordered.

29.11.2024
(2/2)

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To

1.The Judicial Magistrate No.II,
Kancheepuram.

2.The Principal District & Sessions Judge,
Kancheepuram.

3.The Public Prosecutor,
High Court, Madras.



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