



WEB COPY



Crl.MP Nos.18152 & 18153 of 2024
in Crl.RC No.2352 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-12-2024

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

**CRL MP Nos. 18152 & 18153 of 2024
IN CRL RC. 2352 of 2024**

R.Velavan
S/o.Rajangam,
No.100/8, Pandian 3rd Street,
Unamanchery, Kanchipuram District,
Chennai-600 127.

Petitioner

Vs

K.Kodandararmaiah
S/o.K.Chanchiya Naidu,
Prestiga Bella Vista, 3056-3b,
4th Floor, Iyappan Thangal,
Chennai-600 056.

Respondent

For Petitioner : Mr.V.Lakshmi Narayanan

ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner in Crl.A.No.47 of 2024 dated 04.12.2024 passed by the II Additional District and Sessions Judge, Thiruvallur @ Poonamallee confirming the judgment of conviction passed



Crl.MP Nos.18152 & 18153 of 2024
in Crl.RC No.2352 of 2024

WEB COPY

in STC No.103 of 2023 by the learned Judicial Magistrate, FTC Poonamallee, and enlarge the petitioner on bail and to exempt the petitioner from surrendering before the trial court, pending disposal of the above revision.

2. The case of the respondent is that towards discharge of liability, the petitioner had issued a cheque for Rs.9,50,000/- and when the said cheque for presented for payment, it was dishonoured by the Bank for the reason “instrument contains extraneous matter” and “instrument not accepted when scanning and inspite of statutory notice, the petitioner did not make any payment.

3. The learned counsel for the petitioner would submit that the statutory notice was not sent to the petitioner ; that the offence under Section 138 of N.I Act is not made out since the reason for the return of cheque would not fall within the ambit of Section 138 of N.I. Act; that 20% of the compensation amount has already been deposited pending appeal and to show his bonafides, would deposit a further sum equivalent to 30% of the cheque amount and prayed for suspension of sentence.



Crl.MP Nos.18152 & 18153 of 2024
in Crl.RC No.2352 of 2024

WEB COPY

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

5. Considering the submissions made by the learned counsel for the petitioner; the fact that the petitioner is willing to deposit 30% of the cheque amount and that the petitioner had already deposited 20% of the cheque amount during the pendency of the appeal, this Court is inclined to suspend the sentence imposed on the petitioner and exempt the petitioner from surrendering before the trial court, subject to the following conditions, till the disposal of the above Criminal Revision :

(i) The petitioner/accused is directed to deposit 30% of the cheque amount i.e., Rs.2,85,000/- [Rupees Two Lakhs Eighty Five Thousand 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;



Crl.MP Nos.18152 & 18153 of 2024
in Crl.RC No.2352 of 2024

WEB COPY

(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 learned Judicial Magistrate, FTC Poonamallee, Chennai;

(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

(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. Accordingly, these Criminal Miscellaneous Petitions are ordered.



WEB COPY

rgr



Crl.MP Nos.18152 & 18153 of 2024
in Crl.RC No.2352 of 2024

19.12.2024
(2/2)



WEB COPY



Crl.MP Nos.18152 & 18153 of 2024
in Crl.RC No.2352 of 2024

SUNDER MOHAN, J.

rg

To

1.The II Additional District and Sessions Judge,
Thiruvallur @ Poonamallee,
Chennai.

2.The Judicial Magistrate,
FTC Poonamallee,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

CRL MP Nos. 18152 & 18153 of 2024
IN CRL RC. 2352 of 2024

19.12.2024
(2/2)