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*Crl.M.P.Nos.213 & 215 of 2025
in Crl.RC.No.35 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.213 & 215 of 2025
in Crl.R.C.No.35 of 2025

Munusamy

... Petitioner

Vs.

Sree Gokulam Chits and Finance Company Ltd.

Rep. by its M.D.A.M. Gopalan

Rep. by POA Ram Kumar

Branch Manager, Gobichettipalayam

No.65, 1st Floor, Sre Pariyur Towers

Gobichettipalayam

Erode District

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence in the judgment dated 21.11.2024 in C.A.No.326 of 2023 on the file of the learned III Additional District and Sessions Court, Gobichettipalayam vide judgement dated 31.07.2023 made in STC No.1046 of 2017 on the file of the learned JM-1, Gobichettipalayam.

For Petitioner

: Mr.N.Manoharan



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ORDER

These Criminal Miscellaneous Petitions have been filed to suspend the sentence imposed on the petitioner vide judgment dated 21.11.2024 in C.A.No.326 of 2023 on the file of the learned III Additional District and Sessions Court, Gobichettipalayam vide judgement dated 31.07.2023 made in STC No.1046 of 2017 on the file of the learned Judicial Magistrate No.1, Gobichettipalayam, pending disposal of the above criminal revision.

2.The case of the respondent is that towards discharge of its liability, the petitioner issued a cheque for Rs.5,69,226/-; that when the said cheque was 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 petitioner in S.T.C.No.1046 of 2017 was convicted by the Trial Court vide judgment dated 21.11.2024 for the offences under Sections 138 of Negotiable Instruments Act, and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.5,69,226/- as compensation within two months. Aggrieved by the same, he filed Crl.R.C.No.35 of 2025 before this Court along with the instant miscellaneous petition seeking



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suspension of sentence.

4.The learned counsel for the petitioner submitted that the petitioner has raised several arguable points in the above revision which requires consideration, and that the petitioner has deposited 20% of the cheque amount during the pendency of the appeal, and to show his bonafides, he is willing to deposit a further sum equivalent to 30% of the cheque amount.

5.Considering the fact that the petitioner has raised several arguable points; that he has already deposited 20% of the cheque amount and he is also willing to deposit 30% of the cheque amount, this Court is inclined to exempt the petitioner from surrender and suspend the sentence on the following conditions:

6. Accordingly, these Criminal Miscellaneous Petition are allowed and the sentence imposed upon the petitioner/accused by the trial Court, is suspended and the petitioner is exempted from surrendering before the trial Court on the following conditions:

(i) The petitioner shall deposit 30% of the cheque amount



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i.e., Rs.1,70,770/- [Rupees One Lakh Seventy Thousand Seven Hundred and Seventy only), to the credit of S.T.C.No.1046 of 2017 on the file of the learned Judicial Magistrate No.1, Gobichettipalayam, within a period of four (4) 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 for a sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.1, Gobichettipalayam;

(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



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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.

20.01.2025

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To

1.The Judicial Magistrate No.1
Gobichettipalayam

2.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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