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Crl.M.P.Nos.590 and 1644 of 2025
in Crl.R.C.No.76 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.590 and 1644 of 2025
in Crl.R.C.No.76 of 2025

M/s. Sri Lakshmi Vinayagar Enterprises,
Rep by its Prop. Mrs.Anandha Enterprises
Mr.Anandha Valli,
No.80/1, Vellalar Street,
Ambattur, Industrial Estate,
Chennai – 600 058.

...Petitioner in both Crl.M.Ps

Vs

M/s.Mayur's Industrial Services,
Rep. by its Deputy Manager Admin and Finance,
Mr.S.Muthukrishnan,
Crescent Road,
West Shenoy Nagar,
Chennai – 600 030.

...Respondent in both Crl.M.Ps

PRAYER in Crl.M.P.No.590 of 2025: Criminal Miscellaneous Petition has been filed under Section 430 of BNSS, 2023, praying to suspend the sentence passed by the XIX Additional City Civil Court, Chennai, in Crl.A.No.40 of 2023 dated 06.12.2024 and confirmed in C.C.No.5832 of 2019 on the file of the FTC – II, Metropolitan Magistrate Court,



Allikulam, Chennai by an order dated 10.01.2023, pending disposal of this revision.

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PRAYER in Crl.M.P.No.1644 of 2025: Criminal Miscellaneous Petition has been filed under Section 528 of BNSS, 2023, to exempt from surrendering before the Trial Court in connection with Judgment made in C.C.No.5832 of 2019 dated 10.01.2023 on the file of the learned Metropolitan Magistrate, FTC – II, Egmore at Allikulam, Chennai in Crl.R.C.NO.76 of 2025.

For Petitioner in both Crl.M.Ps.(s):

Mr.K.Bommuraj

For Respondent (s) :

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner/accused by Judgment dated 06.12.2024 passed in Crl.A.No.40/2023 by the XIX Additional City Civil Court, Chennai, by confirming the Judgement in C.C.No.5832 of 2019 on the file of the FTC-II, Metropolitan Magistrate Court, Allikulam, Chennai, and to exempt from surrendering before the trial Court, pending disposal of the above revision.



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2. The case of the respondent is that towards discharge of his liability, the petitioner had issued eight cheques totaling a sum of Rs.14,00,000/- (Rupees Fourteen Lakhs only); and that when the said cheques were presented for collection, the same was dishonoured for the reason “exceeds arrangements,” and in spite of statutory notice, the petitioner did not make any payment.

3. The petitioner was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo simple imprisonment for six months and to pay the cheque amount of Rs.14,00,000/- as compensation, in default to undergo two months of Simple Imprisonment. On appeal, the said conviction and sentence were confirmed by the lower Appellate Court.

4. Mr.K.Bommuraj, the learned counsel for the petitioner, would submit that the petitioner is not liable to pay the cheque amount; that the cheques were given as security and were misused by the respondent; that there are several arguable points in the above revision, and the petitioner had deposited Rs.2,80,000/- (Rupees Two Lakhs Eighty Thousand only)



pending the appeal, and to show his bonafides, he is willing to deposit a further sum equivalent to 30% of the cheque amount within a period of four weeks and prayed for suspension of sentence and exemption from surrender before the trial Court.

5. Considering the fact that the petitioner has raised substantial grounds that require consideration in the above revision and the fact that he has already deposited 20% of the cheque amount and he is willing to deposit another 30% of the cheque amount, this Court is inclined to suspend the sentence imposed on the petitioner/accused and to exempt him from surrendering before the trial Court on certain 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 i.e., Rs.4,20,000/- [Rupees Four Lakhs Twenty Thousand only), to the credit of CC.No.5832 of 2019 on the file of the learned Metropolitan Magistrate Fast Track



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Court II at Egmore, Allikulam, Chennai, 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 for a sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties each for a likesum to the satisfaction of the learned Metropolitan Magistrate Fast Track Court II at Egmore, 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



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(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.

31.01.2025

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To

1.The XIX Additional Judge,
XIX Additional City Civil Court,
Chennai.

2. The Metropolitan Magistrate,
FTC – II,
Egmore,
Allikulam
Chennai.



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SUNDER MOHAN, J.

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31.01.2025
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