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Crl.M.P.No.463 of 2025
in Crl.R.C.No.65 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.463 of 2025
in Crl.R.C.No.65 of 2025

1. M/s.YEM AAR GLAZING POINT,
Prop.Mr.R.Manikandan.

2. Mr.R.Manikandan ... Petitioners/Accused 1 & 2
Vs.

M/s.Sapphire Corporation,
Rep. by its Partner,
Mr.M.N.Muhammad Abdul Kader ... Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition filed under Section 430 of BNSS, to suspend the sentence imposed on the petitioners by judgment dated 08.01.2019 passed in C.C.No.1789 of 2016 by the learned Metropolitan Magistrate, Fast Track Court No.I, Egmore at Allikulam, Chennai, and confirmed by judgment dated 28.10.2024 made in C.A.No.40 of 2024 by the learned XVIII Additional Judge, City Civil Court, Chennai, till the disposal of above Criminal Revision Revision.

For Petitioners : Mr.G.Nirmal Krishnan

ORDER



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This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioners/A1 & A2 by judgment dated 08.01.2019 passed in C.C.No.1789 of 2016 by the learned Metropolitan Magistrate, Fast Track Court No.I, Egmore at Allikulam, Chennai, and confirmed by judgment dated 28.10.2024 made in C.A.No.40 of 2024 by the learned XVIII Additional Judge, City Civil Court, Chennai, pending disposal of the Criminal Revision Case.

2. It is the case of the respondent/complainant that towards discharge of liability, the petitioners issued a cheque for Rs.6,48,000/-; and that when the cheque was presented for collection, the same was returned for the reason 'Funds Insufficient' and inspite of the statutory notice, the petitioners did not pay the cheque amount.

3. The 1st petitioner/A1 is the concern and 2nd petitioner/A2 is the Proprietor of said concern. The 2nd petitioner/A2 was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay the cheque amount as compensation to the complainant,



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in default to undergo simple imprisonment for three months.

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4. Challenging the above conviction and sentence, the petitioners/accused preferred Crl.A.No.40 of 2024. The appellate Court, vide judgment dated 28.10.2024 dismissed the appeal filed by the petitioners/accused and confirmed the conviction and sentence imposed by the trial Court.

5. Aggrieved by the above judgment of the appellate Court, the petitioners/accused have preferred this revision and pending revision have sought for suspension of sentence in this Criminal Miscellaneous Petition.

6. The learned counsel for the petitioners/accused submitted that the petitioners have raised substantial grounds in the revision, which require consideration; that the petitioners have already deposited 20% of the cheque amount i.e. Rs.1,29,600/- before the appellate Court; and that to show their *bona fides*, they are willing to deposit further sum



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equivalent to 30% of the cheque amount; and prayed for suspension of sentence.

7. Considering the fact that there are arguable points raised in the revision; that the revision is not likely to be taken up in the near future; that the petitioners had already deposited 20% of the cheque amount and are willing to deposit 30% of the cheque amount, this Court is inclined to suspend the sentence imposed on the 2nd petitioner/A2.

8. Accordingly, this Criminal Miscellaneous Petition is allowed and till the disposal of the Criminal Revision cases, the sentence imposed upon the 2nd petitioner/A2 by the trial Court, is suspended on the following conditions:

(i) The 2nd petitioner/A2 shall deposit 30% of the cheque amount i.e., Rs.1,94,400/- [Rupees One Lakh Ninety Four Thousand and Four Hundred Only), to the credit of C.C.No.1789 of 2016 on the file of the learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam, Chennai, within a period of four weeks from the date of receipt of a copy of this order;



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(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 Cases;

(iii) Thereafter, the sentence of imprisonment alone imposed on the 2nd petitioner/A2 shall be suspended, on his executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Metropolitan Magistrate, FTC-I, Egmore at Allikulam, Chennai;

(iv) The 2nd petitioner/A2 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 2nd petitioner/A2 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



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Court; and

(vi) On the failure of the 2nd petitioner/A2, depositing the said amount, it is open to the trial Court to commit the 2nd petitioner/A2 into custody for undergoing the sentence.

22.01.2025

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Issue order copy by 23.01.2025
Upload the order copy forthwith.

SUNDER MOHAN, J.

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To

1.The Metropolitan Magistrate,
Fast Track Court No.I, Egmore at Allikulam, Chennai.

2.The XVIII Additional Judge,
City Civil Court, Chennai.

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