



CrI.M.P.No.16033 of 2024  
in CrI.R.C.No.1959 of 2024

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SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed on the petitioner/accused in CrI.A.No.52 of 2023 dated 12.08.2024 by the learned I Additional District and Sessions Judge, Namakkal confirming the judgment dated 16.03.2023 in S.T.C.No.28 of 2019 passed by the learned Judicial Magistrate, Paramathy and enlarge the petitioner on bail pending disposal of the above revision.

2.It is the case of the respondent/complainant that the petitioner obtained a loan of Rs.2,40,000/- and had issued a cheque towards discharge of the said loan; that when the cheque was presented for collection, the same was dishonoured for the reason “Insufficient Funds” and that in spite of statutory notice issued by the respondent, the petitioner failed to make the payment.

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3.The petitioner was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.2,40,000/- as compensation to the respondent within one month from the date of judgment, under Section 357(3) of Cr.P.C. and in default to undergo one month simple imprisonment. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4.The learned counsel for the petitioner would submit that the Courts below had not appreciated the defence of the petitioner in proper perspective; that the respondent had not established his capacity to lend a sum of Rs.2,40,000/-; that the petitioner had already deposited 20% of the cheque amount pending the appeal and he is willing to deposit 80% of the cheque amount within a period of four weeks to show his bonafide.



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5.Considering the above submissions made by the learned counsel for the petitioner and in view of the fact that the petitioner is willing to deposit 80% of the cheque amount, this Court is inclined to suspend the sentence on the following conditions till the disposal of the criminal revision case.

(i) The petitioner/accused is directed to deposit 80% of the cheque amount *i.e.*, Rs.1,92,000/- [Rupees One Lakh Ninety Two Thousand only] to the credit of S.T.C.No.28 of 2019 before the Trial Court, 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



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sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the Judicial Magistrate, Paramathy, Namakkal District;

(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



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custody for undergoing the sentence.

6.In the result, the criminal miscellaneous petition is ordered.

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