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Crl.O.P.No.11319 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.11319 of 2021

R.Sathishkumar

... Petitioner

Vs.

The State Rep. by its
The Inspector of Police
Ammamet Police Station
Ammamet.

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. praying to call for the records pertaining to the impugned order passed by the learned III Additional District Judge, Salem in Crl.M.P No.184 of 2021 in C.A. No.12 of 2021, dated 05.04.2021 and consecutively set aside the same, grant suspension of sentence in C.C No.25 of 2018 passed by the V Judicial Magistrate, Salem dated 04.01.2021.

For Petitioner : Mr.K.Akshaya
For M/s.Dr.S.Manoharan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed, to set aside the order of the III Additional District Judge, Salem in CrI.M.P No.184 of 2021 in C.A. No.12 of 2021, dated 05.04.2021.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The petitioner is the accused against whom, a case was registered for the offence under Section 380 IPC in Crime No.392 of 2017 on the file of the respondent police; after completion of investigation, charge sheet has been filed and the same was taken on file in C.C No.25 of 2018 by the Judicial Magistrate No.V, Salem; after a full fledged trial, the petitioner was found guilty and he was convicted with R.I for 6 months along with fine of Rs.250/-, in default to undergo one month imprisonment; the judgment was passed on 04.01.2021; aggrieved by the same, the petitioner had preferred an appeal in C.A No.12 of 2021 on the file of the III Additional District Judge, Salem; he had also filed a petition in CrI.M.P No.184 of 2021 for



suspending the sentence and the said petition was dismissed on 05.04.2021; aggrieved over that, this Criminal Original Petition has been filed.

4. The learned counsel for the petitioner submitted that the petition for suspension of sentence has been dismissed for non appearance of the petitioner's counsel and it has been dismissed without appreciating its merits.

5. The learned Additional Public Prosecutor submitted that the petitioner is absconding and he did not surrender before the Court so far.

6. After having filed the petition to suspend the sentence, the petitioner failed to make his arguments for four hearings. So far, the respondent police also did not secure the petitioner. So the attitude of the petitioner would show that he is just making use of the petition filed for suspension of sentence as a delaying tactics. It is relevant to mention the order of this Court dated 01.07.2021 wherein also, it is observed that the



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records did not show whether the petitioner was present when the judgment was delivered and why his appearance was not made when the petition for suspending the sentence have been posted on 09.03.2021, 11.03.2021, 16.03.2021 and 23.03.2021. Since the appeal itself is pending for more than one year, I feel it is appropriate to direct the III Additional District Judge, Salem to dispose the appeal within a period of one month from the date of receipt of a copy of this order.

7. With the above observation and direction, this Criminal Original Petition is dismissed.

16.11.2022

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking order

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To

1.The III Additional District Judge,
Salem.

2.The Inspector of Police
Ammamet Police Station
Ammamet.

3.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA,J.

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