



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2022

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WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.5734 of 2022

K.Vinothkumar

... Petitioner

Vs.

Chandrasekar

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the return docket order in C.A.No.SR.7142 of 2021 dated 22.12.2021 on the file of the Learned Principal District and Sessions Judge, Thoothukudi and set aside the same and direct the Learned Principal District and Sessions Judge, Thoothukudi to take the appeal on file and suspension of sentence petition filed by the petitioner and dispose the suspension of sentence petition in accordance with law.

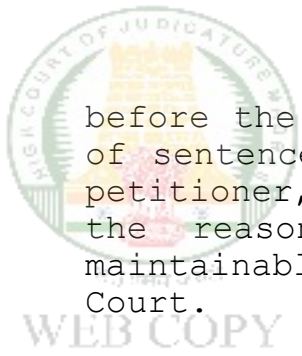
For Petitioner : Mr.M.Mano Kumar

ORDER

This Criminal Original Petition has been filed challenging the return docket order in C.A.No.SR.7142 of 2021 dated 22.12.2021 on the file of the learned Principal District and Sessions Judge, Thoothukudi and set aside the same and direct the learned Principal District and Sessions Judge, Thoothukudi to take the appeal on file and suspension of sentence petition filed by the petitioner and dispose the suspension of sentence petition in accordance with law.

2. The petitioner is an accused on the complaint lodged by the respondent for the offences punishable under Section 138 of Negotiable Instruments Act. The same has been taken cognizance in CC.No.10 of 2019 on the file of the Fast Track Court (Magisterial Level), Kovilpatti and the petitioner was found guilty. The Trial Court convicted the petitioner and sentenced him to undergo one year and three months imprisonment and also directed to pay the cheque amount as compensation.

3. On the date of judgment, the petitioner did not appear before the Trial Court and as such, the Trial Court issued non-bailable warrant as against the petitioner. Aggrieved by the judgment passed against the petitioner, he preferred an appeal



before the Appellate Court and also filed a petition for suspension of sentence. When the non-bailable warrant is pending against the petitioner, the First Appellate Court returned the appeal papers for the reason that the suspension of sentence petition is not maintainable, since the sentence was not suspended by the Trial Court.

4. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below. This Criminal Original Petition is dismissed. However, the petitioner is at liberty to approach the Trial Court by filing a petition for recall of non-bailable warrant issued against him and the same may be considered by the Trial Court on merits and in accordance with law on the same day.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judge,
Fast Track Court (Magisterial Level),
Kovilpatti
- 2.The Principal District and Sessions Judge,
Thoothukudi.

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30.03.2022

MGJ(12.04.2022) 2P 3C