



CRL.O.P (MD) No.12906 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 18.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.12906 of 2022

Elango

...Petitioner/Sole Accused

Vs.

P.Vadivel

...Respondents/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the docket order, dated 07.06.2022 in unnumbered filing No.1194/2022 passed by the Principal Sessions Court, Karur and issue a direction, directing the Principal Sessions Court, Karur to number the appeal and suspension of sentence petition filed by the petitioner and consequently proceed with the case in accordance with law within the stipulated time.

For Petitioner : Mr.A.Thiyagarajan

ORDER

This Criminal Original Petition has been filed to set aside the docket order, dated 07.06.2022 in unnumbered filing No.1194/2022 passed by the Principal Sessions Court, Karur and issue a direction, directing the Principal Sessions Court, Karur to number the appeal and suspension of sentence petition filed by the petitioner and consequently, proceed with the case in accordance with law within the stipulated time.



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2. The learned counsel appearing for the petitioner submitted that the respondent has filed a private complaint against the petitioner for the offence punishable under Section 138 of Negotiable Instrument Act and the same was taken on file in C.C.No.411 of 2017 on the file of the learned Judicial Magistrate (at Magistrate Level), Fast Track Court, Karur. After conducting trial, the learned Judge has convicted the petitioner, by an judgment dated 06.04.2022 in C.C.No.411 of 2017 for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced him to undergo simple imprisonment for a period of two years and also directed to pay a sum of Rs.4,00,000/- as compensation within a period of one month. Aggrieved by the said judgment, he preferred an appeal under Section 374 (3) of Cr.P.C. with suspension of sentence petition before the learned Principal Sessions Judge, Karur and the Appellate Court gave number in F.No.CRLA/1194/2022 – CNR.No.TNKR010018742022 assigned C.A.No.63 of 2022 and CrI.M.P.No. 1049 of 2022. Thereafter, the trial Judge deleted that order and returned the same with an endorsement that the appellant / accused is directed either getting suspension of sentence from the trial Court or surrender before the trial Court and re-call the NBW, then file the appeal before this Court. Aggrieved against that order, the petitioner has filed this petition.



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3. Heard the learned counsel appearing for the petitioner and considered the matter in the light of the submissions made by the learned counsel for the petitioner.

4. A perusal of the records reveals the fact that the respondent prosecuted the petitioner for the offence under Section 138 of Negotiable Instrument Act and the same was taken on file in C.C.No.411 of 2017 on the file of the learned Judicial Magistrate (at Magistrate Level), Fast Track Court, Karur. After conducting trial, the learned Judge has convicted the petitioner by an judgment dated 06.04.2022 in C.C.No.411 of 2017 for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced him to undergo simple imprisonment for a period of two years and also directed to pay a sum of Rs.4,00,000/- as compensation within a period of one month. Aggrieved by the said judgment, he preferred an appeal under Section 374 (3) of Cr.P.C. with suspension of sentence petition before the learned Principal Sessions Judge, Karur. But unfortunately, after assigning number to the appeal in C.A.No.63 of 2022 and for suspension of sentence petition in CrI.M.P.No.1049 of 2022, the learned judge has returned the same with an endorsement that the appellant is directed to either get suspension of sentence from the trial Court or surrender before the trial Court and re-call the Non Bailable Warrant.



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5.Considering the above facts and circumstances of the case, the learned Principal Sessions Judge, Karur, is directed to number the appeal and the petition for suspension of sentence and to decide the matter on merits, within a period of one week from the date of receipt of a copy of this order and the order passed by the Court below is hereby set aside.

6.With the above observation, this Criminal Original Petition is allowed.

18.07.2022

Index : Yes / No
Internet : Yes/ No
vsd

Note: Registry is directed to return the original papers to the petitioner to be produced before the concerned Court after substituting the same with xerox copy.

To

- 1.The Principal Sessions Judge,
Karur.
- 2.Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

vsd

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