



CrI.O.P.(MD) No.14699 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

CrI.O.P.(MD) No.14699 of 2022

Palanisamy,

: Petitioner

Vs

Thirunavukkarasu,

: Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to set aside the return docket order and directing the Learned Principal District and Sessions Judge to take up the appeal on file in F.No. CRCA/1461/2022 and to proceed further.

For Petitioner : Mr.Karuppasamy Pandiyan.G,

ORDER

This criminal original petition has been filed seeking to set aside the returned docket order and consequently, to direct the learned Principal District and Sessions Judge to take up the appeal on file in F.No. CRCA/1461/2022.



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2.The learned Counsel appearing for the petitioner submitted that the petitioner is the accused person in S.T.C.No.145/2021, on the file of the Court below. After trial, he was convicted by the trial Court on 13.04.2022 and was sentenced to undergo one year rigorous imprisonment and was also directed to pay a compensation amount of Rs.3,60,000/-. Since the petitioner expressed his willingness to present an appeal, the learned Principal District and Sessions Judge suspended the sentence under Section 389(3)(1) of Cr.P.C, for a period of 30 days. The petitioner was not able to file an appeal within the period of 30 days. After some delay, he filed the appeal, but the trial Court without taking the same on file, returned the same with an endorsement 'to surrender before the trial Court or get a suspension order from the High Court'. Further, he submitted that since the first appeal is the statutory right, the Appellate Court returned the same without taking on file is un-sustainable and pleaded to direct the trial Court to take the appeal on file. Hence this petition has been filed.

3.On a perusal of the records, it is seen that the petitioner filed the appeal beyond the period of 30 days. Hence, the trial Court without taking



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the same on file, returned the appeal stating that the 'accused should be surrender before the trial Court or get a suspension order from the High Court'.

4.In view of the above, this Court is of the view that the trial court may take up the appeal on file and pass appropriate orders with regard to the continuance of the suspension of the sentence or to impose any condition as contemplated under Section 148 of Negotiable Instruments Act, 1881.

5.Therefore, the returned order of the appellate Court is hereby set aside and the learned Principal District Judge, Karur is directed to take the appeal on file. Accordingly, this criminal original petition is allowed. Registry is directed to return the original impugned order to the learned Counsel appearing for the petitioner, after obtaining the copy of the same on proper acknowledgment forthwith.

17.08.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
lr

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V.SIVAGNANAM, J.

lr

To
The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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