



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.18241 of 2021

C.Murugesan

... Petitioner / Accused

Vs.

S.Suresh Kumar

... Respondent / Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the return docket order in C.A.No.SR 6700 of 2021 dated 23.09.2021 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 accept the appeal and suspension of sentence petition filed by the petitioner and dispose the suspension of sentence petition in accordance with law.

For Petitioner : Mr.N.Mohideen Basha
For Respondent : Mr.R.M.Arunswaminathan

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

2. The petitioner was tried for the offence under Section 138 of the Negotiable Instruments Act in C.C.No.97 of 2013 on the file of the Judicial Magistrate (Fast Track Court), Kovilpatti. Vide Judgment dated 19.08.2021, he was convicted and also sentenced. The petitioner was not present when the judgment was pronounced. Hence, Non Bailable Warrant was issued against him. Aggrieved by the same, the petitioner filed an appeal before the Principal District and Sessions Judge, Thoothukudi. The Sessions Court declined to number the appeal memorandum and returned the same. In these circumstances, this criminal original petition came to be filed.

3. I made it clear to the petitioners' counsel that unless the petitioner pays 20% of the cheque amount to the complainant directly, I will not be inclined to entertain this criminal original petition. To enable the petitioner's counsel to get instructions, the matter was adjourned.

4. Today when the matter was taken up for hearing, the learned counsel appearing for the complainant submitted that he has received a Demand Draft favouring the complainant for a sum of Rs.1,00,000/-. This represents 20% of the cheque amount.



5. In these circumstances, the Sessions Court, Thoothukudi, is directed to number the appeal memorandum dated 16.09.2021 and dispose it of on merits and in accordance with law. Since the petitioner had already paid 20% of the cheque amount, Non Bailable Warrant issued against him is set aside. The sentence imposed on the petitioner will also remain suspended till the disposal of the appeal.

6. This criminal original petition is allowed on these terms.

7. Registry is directed to return the original appeal memorandum filed by the petitioner to the learned counsel for the petitioner. The petitioner shall re-present the same before the learned Principal District and Sessions Judge, Thoothukudi, within a period of ten days, thereafter.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

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 Principal District and Sessions Judge,
Thoothukudi.
- 2.The Judicial Magistrate,
(Fast Track Court), Kovilpatti.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

COPY TO:

The Section Officer, E.R. Section,
Madurai Bench of Madras High Court, Madurai.

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NSN (CO)

MGJ(12.01.2022) 2P 5C

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