



WEB COPY



Crl.O.P.No.6181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.6181 of 2023

and

Crl.M.P.No.4330 of 2023

N.Eshwaran

... Petitioner

Vs

1.N.Murthy

2. The State rep. By,
Public Prosecutor of Nilgiris,
Udhagamandalam.

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 13.02.2023 made in Crl.M.P.No.1416 of 2022 in C.A.No.67 of 2022 on the file of Sessions Division of the Nilgiris District at Udhagamandalam.

For Petitioner : M/s.C.Prabakaran

For R1 : Mr.M.Vinoth

For R2 : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 13.02.2023 made in Crl.M.P.No.1416 of 2022 in C.A.No.67 of 2022 on the file of Sessions Division of the Nilgiris District at Udhagamandalam.



2. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that, both the parties have compromised the issue between them and also filed Joint Compromise Memo.

3. It is seen that petitioner filed Crl.M.P.No.1416 of 2022 on the file of the Court of Sessions Division, Nilgiris seeking suspension of sentence ordered by the trial Court in S.T.C.No.03 of 2021 dated 25.11.2022. This Court on going through the order passed in Crl.M.P.No.1416 of 2022 in C.A.No.67 of 2022 finds that, petitioner was convicted and sentenced for the offence under Sections 138 of Negotiable Instruments Act on 25.11.2022. Though, the Criminal Appeal was presented before the Sessions Court on 22.12.2022 within 30 days, petition for suspension of sentence was taken on file only on 23.12.2022 and posted to 03.01.2023. It appears that, no attempt was made by the petitioner's counsel to move suspension of sentence petition before expiry of 30 days. On 03.01.2023, it came to light that the Fast Track Judicial Magistrate, Coonoor had issued conviction warrant on 02.01.2023. Petition for suspension of sentence got adjourned at the instance of the learned counsel for the petitioner, due to one reason or other. It appears that, petitioner has not taken any steps to surrender before the Sessions Court.



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4. In the light of the factual background of the case, this Court finds no merits to set aside the order dated 13.02.2023 in Crl.M.P.No.1416 of 2022 in C.A.No.67 of 2022 on the file of Sessions Division of the Nilgiris District at Udhagamandalam.

5. Accordingly, this Criminal Original Petition is dismissed. However, this Court directs the petitioner to approach the Court of Sessions Division of the Nilgiris District, Udhagamandalam with appropriate petition for recording the compromise by filing the compounding petition. Since it is reported that parties have compromised, learned Sessions Judge is directed to consider the compromise between the parties and pass appropriate orders in accordance with law. Consequently, connected miscellaneous petition is closed.

17.04.2023

Sma



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G.CHANDRASEKHARAN,J.

sma

To,

1. Sessions Division of the Nilgiris District,
Udhagamandalam
2. The Public Prosecutor of Nilgiris,
Udhagamandalam.
3. The Public Prosecutor,
High Court of Madras.

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