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Crl.OP.No.12907 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.12907 of 2023

Akash Khan

... Petitioner

Vs.

Shanthi Mandal

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the orders made in Crl.M.P.No.11907 of 2023 in C.A.No.291 of 2023 on the file of the learned Principal Sessions Judge, Chennai and set aside the same.

For Petitioner

: Mr.Om Sai Ram

For Respondent

: Mr.Leonard Arul Joseph Selvam
Government Advocate(Crl.side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to the orders made in Crl.M.P.No.11907 of 2023 in C.A.No.291 of 2023 on the file of the learned Principal Sessions Judge, Chennai and set aside the same.



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2. The learned counsel for the petitioner submitted that, petitioner is an accused in C.C.No.942 of 2018. Petitioner was found guilty under Section 138 of N.I Act and sentenced to undergo two months simple imprisonment and to pay fine of Rs.28,00,000/- in default, to undergo simple imprisonment of further 6 months. The judgment was pronounced on 14.03.2023 and the trial Court suspended the sentence till 17.04.2023. Petitioner filed Appeal along with the petition for suspension of sentence on 10.04.2023. Appeal was returned for compliance of certain defects and to be represented after two weeks. He further submitted that, appellant Court directed the petitioner to file suspension of sentence order passed in Crl.M.P.No.23355 of 2023 on 14.03.2023. Petitioner applied for copy application on 18.04.2023 and the same was given only on 10.05.2023. Since, vacation Court was scheduled, petitioner filed petition for suspension on 16.05.2023. However, the petition was numbered only on 01.06.2023 and listed for admission on 02.06.2023. The learned Principal Session Judge, Chennai finding that, period of suspension of sentence passed by the trial Court is already over, dismissed the petition. Challenging the said order, present petition is filed.



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3. In the circumstances stated by the learned counsel for the petitioner, that the certified copy of the suspension of the sentence order passed by the learned Judicial Magistrate was given to the petitioner only on 10.05.2023 and that he represented the appeal along with the petition for suspension of sentence on 16.05.2023 and that the same was numbered only on 01.06.2022 and listed on 02.06.2023, this Court is of the view that the dismissal of the petition on the ground that the period of suspension of sentence ordered by the trial Court was already lapsed on 17.04.2023 is not correct. Therefore, order made in Crl.M.P.No.11907 of 2023 in C.A.No.291 of 2023 on the file of the learned Principal Sessions Judge, Chennai is set aside. The learned Principal Sessions Judge, Chennai is directed to consider the petition filed for suspension of sentence in Crl.M.P.No.11907 of 2023 and pass appropriate orders on merits and in accordance with law within a period of two weeks from the date of receipt of copy of the order.

4. With the above directions, this Criminal Original Petition is disposed of.

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G.CHANDRASEKHARAN,J.

Sma

To
Principal Sessions Judge, Chennai.

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