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Crl.OP.No.13392 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.13392 of 2023

B.Uma

... Petitioner

Vs.

A.Shanthi

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the dismissal order dated 07.06.2023 passed by th learned Principal Sessions Judge, Chennai in Crl.M.P.No.12412 of 2023 in C.A.No.304 of 2023.

For Petitioner

: Mr.G.Ashok Kumar

ORDER

This Criminal Original Petition has been filed to set aside the dismissal order dated 07.06.2023 passed by th learned Principal Sessions Judge, Chennai in Crl.M.P.No.12412 of 2023 in C.A.No.304 of 2023.



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2. The learned counsel for the petitioner submitted that, petitioner is an accused in C.C.No.6573 of 2019 on the file of the learned Metropolitan Magistrate, FTC-I, Chennai. Petitioner was found guilty under Section 138 of N.I. Act and sentenced to undergo six months simple imprisonment and to pay the cheque amount as compensation to the complainant within one month, in default, to undergo simple imprisonment for six weeks. Against the said judgment, petitioner filed criminal appeal in C.A.No.304 of 2023 along with the suspension of sentence in Crl.M.P.No.12412 of 2023 on 07.06.2023 on the file of the Principal Sessions Judge, Chennai. That petition was dismissed for the reason that, period of suspension of sentence granted by the trial Court was already over. Challenging the said order, present petition is filed.

3. Perusal of the records shows that, the judgement in C.C.No.6573 of 2019 was pronounced on 06.04.2023 and the sentence was suspended till the appeal period is over ie., 30 days and the appeal period expired on 06.04.2023. Though the petitioner filed suspension of sentence along with the appeal on 28.04.2023, the appeal was returned for compliance of certain defects and it



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was represented only on 05.06.2023. By the time, the period suspending sentence was over and therefore, the suspension of sentence petition was dismissed.

4. It is the submission of the learned counsel for the petitioner that, due to petitioner counsel's father's demise, appeal was not represented in time and that is the reason for the delay in representing the appeal.

5. Considering the reason stated by the learned counsel for the petitioner for the delay for representing the appeal along with the suspension of sentence petition, this Court is inclined to set aside the order passed by the learned Principal Sessions Judge, Chennai in Crl.M.P.No.12412 of 2023 in Crl.O.P.No.304 of 2023.

6. Accordingly, this Criminal Original Petition is allowed. The order made in Crl.M.P.No.12412 of 2023 in Crl.O.P.No.304 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



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suspension of sentence in Crl.M.P.No.12412 of 2023 and pass appropriate orders on merits and in accordance with law.

7. Accordingly, this Criminal Original Petition is allowed.

Sma

16.06.2023



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G.CHANDRASEKHARAN,J.

Sma

To
Principal Sessions Judge, Chennai.

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16.06.2023