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Crl.O.P.No.17642 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17642 of 2023

S.Suresh

.. Petitioner

Vs.

State represented by:-
Inspector of Police,
K5-Peravllur Police Station,
Chennai – 600 08.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 17.07.2023 made in Crl.M.P.No.16944 of 2023 by the Hon'ble Principal Sessions Judge at Chennai by suspending the execution of the sentence and conviction against the petitioner / Accused -1 passed in Judgment dated 15.06.2023 in C.C.No.1914 of 2015 by V Metropolitan Magistrate Court, at Egmore.

For Petitioner : Mr.S.Gurumoorthy

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This petition has been filed challenging the order passed by the Court below in Crl MP No.16944 of 2023, dismissing the application filed for suspension of sentence by order dated 17.07.2023.

2. Heard Mr.S.Gurumoorthy, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for respondents.

3. The petitioner was convicted by the V Metropolitan Magistrate Court, Egmore by judgement made in CC No.1914 of 2015 for offence under Section 323 r/w 34 and 324 r/w 34 of IPC and sentenced to undergo simple imprisonment for six months for the offence under Section 323 r/w 34 of IPC and to undergo simple imprisonment for 8 months for the offence under section 324 r/w 34 IPC. There are totally three accused persons in this case and the petitioner has been arrayed as A1.



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3. The Trial Court suspended the sentence till 14.07.2023. In the meantime, the petitioner filed an appeal before the Principal Sessions Judge, Chennai in Crl A No.410 of 2023. In this appeal, the petitioner filed an application seeking for suspension of sentence along with the appeal. The appeal papers were returned for compliance with certain defects and it was represented on 14.07.2023. Therefore, by the time the application for suspension of sentence was taken up on 17.07.2023, the period for which the sentence imposed by the Trial Court was suspended, had expired. In view of the same, the Court below dismissed the suspension application by order dated 17.07.2023. Aggrieved by the same, the present Criminal Original petition has been filed before this Court.

4. Taking into consideration the facts and circumstances of the case, this Criminal Original petition is disposed of with the following directions :-

(a) The petitioner shall surrenders before the I Additional City Civil Court, Chennai, on 10.08.2023 and shall file a bail application before the concerned Court.



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(b) If the petitioner surrender on the date fixed by this Court, I

Additional City Civil Court, Chennai shall enlarge the petitioner on bail by imposing necessary conditions. and

(c) If the petitioner fails to surrender before the concerned court within the time stipulated in clause (a), it is left open to the Court below to secure the petitioner and make him undergo the sentence imposed by the Trial Court.

07.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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Note : Issue order copy on 08.08.2023

To

1. The Principal Sessions Judge, Chennai.
2. The V Metropolitan Magistrate Court, Egmore.
3. The Public Prosecutor
High Court of Madras,
Madras.



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N.ANAND VENKATESH, J

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