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Crl.O.P.No.22256 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22256 of 2023

A.Marimuthu

... Petitioner

Vs.

G.Ashok Kumar

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 19.06.2023 made in Crl.M.P.No.13731 of 2023 in Crl.A.No.336 on the file of the learned Principal Sessions Judge, Chennai, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.Panneer Selvan

ORDER

The petitioner herein was convicted by the Metropolitan Magistrate Fast Track Court-II, Egmore at Allikulam, Chennai in C.C.No.7172 of 2019 vide judgment dated 16.05.2023. He was sentenced to undergo 6 months Simple Imprisonment for an offence under Section 138 of Negotiable Instruments Act.



2. On the date of judgment, the petitioner sought for suspension of sentence. Accordingly, the trial Court suspended the sentence till 14.06.2023 and also directed the petitioner/accused to appear before the trial Court with the appellate Court order of suspension of sentence. The petitioner promptly preferred appeal before the Sessions Court, Chennai in Crl.A.No.336 of 2023. However, when his application for suspension of sentence came up for consideration on 19.06.2023, neither he nor his counsel appeared. Therefore, the petition was dismissed for default and directed the trial Court to issue conviction warrant and intimate to the same to the appellate Court.

3. In the said circumstances, the present Criminal Original Petition is filed to set aside the order of the learned Principal Session Judge dated 19.06.2023. Having convicted, the petitioner either should undergo the sentence or seek bail / suspension of sentence from the appellate Court on preferring appeal. His application for suspension of sentence was dismissed for default and as a consequence, he must be secured and sent to prison.

4. In this petition though he sought for relief to set aside the order of the learned Principal Sessions Judge, the consequential relief not prayed .



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There is no undertakings on the part of the petitioner that he will surrender before the trial Court and seek for appropriate relief. However, having come to the High Court invoking the inherent power of this Court and considering the term of imprisonment, this Court is of the view that if the petitioner deposits 20% of the cheque amount in the trial Court in CC account and produced it before the Sessions Court and appear in person and seek for suspension of sentence pending disposal of the appeal, such application may be consider on the same day and appropriate order shall be passed. The time for deposit of 20% of the cheque amount shall be on or before 18.10.2023.

5. With the above direction, this Criminal Original Petition is disposed of.

06.10.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

The Principal Sessions Judge, Chennai

Dr.G.JAYACHANDRAN,J.

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