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Criminal Original Petition No.20336 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.20336 of 2023

and

CrI.M.P.No.13833 of 2023

M.Sithick @ Mohammed Abubakar Sithick
S/o.S.Mohammed Moideen

...Petitioner

Vs

A.Dhanasekaran
S/o.M.Arumugham

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for records pertaining to CrI.M.P.No.18213 of 2023 on the file of Principal District and Sessions Judge, Chennai, dated 27.07.2023 in C.A.No.425 of 2023 on the file of VII Additional Sessions Judge, Chennai and to quash the same.

For Petitioner : Mr.M.Prabhakar



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ORDER

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This Criminal Original Petition has been filed challenging the order passed by the Court below in CrI.M.P.No.18213 of 2023 in CrI.A.No.425 of 2023, dated 27.07.2023, dismissing the petition filed by the petitioner for suspension of sentence pending disposal of the Criminal Appeal No.425 of 2023.

2. Heard Mr.M.Prabhakar, learned counsel for petitioner and carefully perused the materials available on record.

3. The petitioner was convicted for offence u/s.138 of the Negotiable Instruments Act and was sentenced to undergo one year simple imprisonment and to pay the cheque amount as compensation and in default to undergo three months simple imprisonment. When the trial Court passed the judgment on 08.06.2023, the sentence was suspended till the appeal period is over.

4. The petitioner filed an appeal before the Court below in



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CrI.A.No.425 of 2023. He also filed a petition seeking for suspension of sentence pending the appeal. By the time the suspension of sentence petition was taken up for hearing by the Court below, the period for which the trial Court had suspended the sentence had come to an end. Therefore, the Court below refused to entertain the petition and dismissed the same by order dated 27.07.2023. Aggrieved by the same, the present petition has been filed before this Court.

5. Taking into consideration the facts and circumstances of the case, this Court is inclined to dispose of the present petition in the following terms:

- (a) the petitioner is directed to surrender before the VII Additional City Civil Court, Chennai, on or before 11.09.2023 and file a bail petition before the concerned Court;
- (b) the petitioner shall deposit 20% of the compensation amount fixed by the trial Court within a period of 60 days, to the credit of STC No.2632 of 2022;



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- (c) the VII Additional City Civil Court, Chennai, shall grant interim bail to the petitioner for a period of 60 days;
- (d) if the petitioner deposits the compensation amount within the period of 60 days fixed by this Court, the bail order shall be made absolute by imposing necessary conditions; and
- (e) if the petitioner fails to deposit the compensation amount as directed by this Court, the interim bail order shall stand cancelled and the Court below shall make the petitioner to undergo the sentence imposed by the trial Court.

Accordingly, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

05.09.2023

Note: Issue order copy by 07.09.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To
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- 1.The Principal District and Sessions Judge,
Chennai.
- 2.The VII Additional Sessions Judge,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J



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