



Crl.OP.No.22827 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.22827 of 2023

and

Crl.MP.No.15985 of 2023

1. M/s.Nivar Products Pvt Ltd.,
Represented by its Director,
V.S.Dinakar
2. V.S.Dinakar

... Petitioners

Vs.

Dr.G.Arumugam

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in Crl.MP.No.1/2023 in Crl.A.No.544 of 2023 pending on the file of the Hon'ble Principal Sessions Judge, Chennai and set aside the order of the Hon'ble Principal Sessions Judge, Chennai dated 14.09.2023 .

For Petitioners : Mr.Ravishankar Vallatharasu

ORDER

This Criminal Original Petition is filed to set aside the order of dismissal passed by the learned Principal Sessions Judge, Chennai in Crl.MP.No.1/2023 in Crl.A.No.544 of 2023 dated 14.09.2023.



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2. The petitioner herein found guilty in a private complaint initiated under Section 138 of Negotiable Instruments Act for issuing a cheque for Rs.50,000/- dated 10.05.2009 and and cheque for Rs.2,00,000/- dated 27.05.2009. Both were returned on presentation. The second petitioner herein was convicted and sentenced to undergo simple imprisonment for six months and to pay double the cheque amount as compensation.

3. Aggrieved against the said judgment of conviction and sentence in C.C.No.4855 of 2010 , the petitioner has preferred Criminal Appeal in CrI.A.No.544 of 2023 on the file of the learned Principal Sessions Judge, Chennai. Along with the said appeal, the petitioner has filed miscellaneous petition seeking suspension of sentence, the same was dismissed by the lower Appellate Court on the ground that the petitioner does not obtain any order for suspension of sentence from the trial court and not surrender before the Appellate Court.

4. The learned Appellate Court while considering the application of suspension of sentence has observed that the trial Court has suspended the sentence only till 12.09.2023 and thereafter the suspension of sentence application has taken up for consideration on 14.09.2023. In the meanwhile, there is possibility of issuance of warrant and if warrant is issued by the trial court, the suspension of sentence application cannot be



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entertained. Challenging the said order, now the petitioner/accused is before this Court.

5. On examining the documents under request made by the petitioner, this Court thereby directs the petitioner/accused to deposit a sum of Rs.1,00,000/- being 20% of the compensation awarded, to the credit of C.C.No.4855 of 2010 and on such deposit with the receipt, he shall appear before the learned Principal Sessions Judge, Chennai, the appeal pending in CrI.A.No.544 of 2023 and seek for suspension of sentence pending appeal. If 20% of the compensation amount is deposited, the learned Principal Sessions Judge, Chennai, shall consider the suspension of sentence petition imposing the other regular conditions and grant relief. The time for complying with this condition is 15 days from today.

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

Vv

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Note: Issue Order Copy on 16.10.2023

To



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1. The Principal Sessions Judge,
Chennai,

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2. The Public Prosecutor,
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN,J.

Vv



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