



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.22251 & 22252 of 2023

Vamseedharan

...Petitioner
in both Crl.O.Ps

Vs.

State rep.by
The Sub Inspector of Police,
Central Crime Branch, CCB,
Egmore,
Chennai-7.

...Respondent
in both Crl.O.Ps

(Crime No.328 of 2017)

COMMON PRAYER: Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to set aside the Docket order passed by the learned Metropolitan Magistrate CCB Cases and CBCID Metro (Metro Cases), Egmore, Chennai in Sr.Nos.120 & 121 of 2023 in C.C.No.3260 of 2018 by an order dated 21.09.2023.



In both CrI.O.Ps

For Petitioner

: Mr.S.Suresh

For Respondent

: Mr.A.Damodaran

Additional Public Prosecutor

COMMON ORDER

These petitions have been filed challenging the Docket Order passed by the Court below refusing to entertain the applications filed by the petitioner to recall the non-bailable warrant and to suspend the sentence imposed by the Trial Court.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

3.The petitioner along with two other accused persons faced trial in C.C.No.3260 of 2018 before the learned Metropolitan Magistrate for exclusive trial of CCB and CBCID Cases, Egmore, Chennai for offence under Sections 423 and 420 r/w 34 of IPC. The Trial Court by judgment dated 12.09.2023 convicted the accused persons. The petitioner was arrayed as A2. The petitioner was convicted for offence under Section 420 r/w 34 of IPC and was sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/- and in



default to undergo six months rigorous imprisonment. When the judgment was passed by the Trial Court, the petitioner was not present before the Court and hence, the Trial Court issued non-bailable warrant against the petitioner.

4. Aggrieved by the above judgment passed by the Trial Court, the petitioner filed criminal appeal in the Registry of the Principal District and Sessions Court, Chennai. The Registry refused to receive the appeal papers on the ground that a non-bailable warrant has been issued against the petitioner by the Trial Court. In view of the same, the petitioner filed two applications before the Trial Court. One application was to recall the non-bailable warrant issued against the petitioner and other application was to suspend the sentence imposed against the petitioner. Both the applications were returned by the Trial Court through Docket Order dated 21.09.2023. Aggrieved by the same, these criminal original petitions have been filed before this Court.

5. In the considered view of this Court, even if a non-bailable warrant has been issued against an accused person by the Trial Court for non-appearance at the time of passing of the judgment, that will not dis-entitle the accused person from filing a criminal appeal before the concerned Court. The fact that a non-bailable



warrant was issued against the petitioner by the Trial Court, will have a bearing only when the concerned Court considers the petition for suspension of sentence/bail filed by the petitioner pending the criminal appeal.

6.The judgment was passed by the Trial Court on 12.09.2023 and the non-bailable warrant was issued against the petitioner on the same day. The petitioner has filed an application for recalling the non-bailable warrant and for suspension of sentence on 21.09.2023. This application therefore has been filed within the limitation period provided for the petitioner to file an appeal before the Appellate Court. Unless, the non-bailable warrant is recalled and the sentence is suspended, it will become difficult for the petitioner to approach the Appellate Court since, there will be some technical objections.

7.In view of the above, there shall be a direction to the learned Metropolitan Magistrate CCB Cases and CBCID Metro Cases, Egmore, Chennai to entertain the applications filed by the petitioner seeking for recall of non-bailable warrant and for suspension of sentence and order shall be passed on the same day. Thereafter, it is left open to the petitioner to workout his remedy by filing an appeal in accordance with law.



WEB COPY 8. Accordingly, both the criminal original petitions are disposed of with the above directions.

9. The Registry is directed to return back the original records filed by the petitioner to enable the petitioner to re-present the same before the Trial Court and workout his remedy.

27.09.2023

Speaking Order : Yes/No
Index : Yes/No
Internet : Yes/No
ssr

Note: Issue Order Copy on 29.09.2023

To

1. The Sub Inspector of Police,
Central Crime Branch, CCB,
Egmore,
Chennai-7.

2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH,J

SSI

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