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Crl.O.P.No.26671 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.26671 of 2023

Premdass

... Petitioner

Vs.

State Rep. By,
The Inspector of Police,
Ranipet Police Station,
Vellore District.
Crime No.115 of 2021

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order made in Crl.M.P.No.3832 of 2023 in Crl.A.No.138 of 2023 dated 29.09.2023 on the file of the learned Principal Sessions Judge, Vellore.

For Petitioner : Mr. S.N.Arun Kumar
For Respondent : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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ORDER

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Petition is filed to set aside the order made in Crl.M.P.No.3832 of 2023 in Crl.A.No. 138 of 2023 date 29.09.2023 on the file of the learned Principal Sessions Judge, Vellore.

2. Petitioner herein found guilty by the trial Court for the offence under Sections 448, 294(b), 323 and 506(i) of IPC was sentenced to pay fine of Rs.1,000/- or one year imprisonment for offence under Section 448 and to pay fine of Rs.1,000/- or one year imprisonment for the offence under Section 323 of IPC. The judgement dated 28.07.2023 was challenged before the Sessions Judge, Vellore in C.A.No.138 of 2023. The sentence was suspended for thirty days by the trial Court under Section 389(3) of Cr.P.C. Petitioner herein, though filed appeal and suspension of sentence before the Appellate Court in time, same was numbered subsequently after thirty days and therefore, he has taken out an application for extension of suspension of sentence, but the same was not entertained by the trial Court. Before the Appellate Court, his application in Crl.M.P.No.3832 of 2023 seeking suspension of sentence was dismissed on the ground that the



Magistrate has already issued Non Bailable Warrant to secure the accused to commit him to judicial custody. The committal warrant already been issued by the learned Magistrate on expiry of thirty days.

3. The learned counsel appearing for the petitioner submitted that, due to administrative reasons, his petition for suspension of sentence before the Lower Appellate Court was not taken within 30 days. Thereafter, he may be given opportunity to get suspension of sentence by extending the time to surrender.

4. The learned counsel for the petitioner further submits that, petitioner is a Government Servant, if he committed to prison, it will cause irretrievable damage.

5. Taking note of all these facts, in exercise of power under Section 482 of Cr.P.C, this Court passes the following order.



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Petitioner herein is directed to surrender before the learned District Munsif Cum Judicial Magistrate, Ranipet within seven days from today. On such surrender, the learned Judicial Magistrate shall receive the sureties and test the same and extend the period of suspension of sentence for five days from the date of surrender. Within five days, petitioner shall move the petition for suspension of sentence before the Sessions Court pending under Section 389(1) of Cr.P.C.

The time frame should be strictly followed and no further extension will be granted.

6. With the above observations and directions, this Criminal Original Petition is dismissed.

07.12.2023

Index : Yes/No

Neutral Citation : Yes/No

Sma

Note: Issue Order Copy on 08.12.2023



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Dr.G.JAYACHANDRAN,J.

Sma

To:

1. Principal Sessions Judge,
Vellore.
2. District Munsif Cum Judicial Magistrate,
Ranipet
3. The Inspector of Police,
Ranipet Police Station,
Vellore District.
4. The Public Prosecutor,
Madras High Court.

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