



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.12.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.27227 of 2023

J.Karthik

... Petitioner

-VS-

T.Venkatesh

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the dismissal order passed dated 22.11.2023 by the learned Principal Sessions Judge, City Civil Court, Chennai in Crl.M.P. No.30069 of 2023 in Crl.A. No.729 of 2023.

For Petitioner : Mr.S.Jeganathan

For Respondent :Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

Perused the impugned order dismissing the petition to suspend the sentence. The lower appellate Court considering the facts that time granted to surrender expired, had not entertained the Application filed under Section 389(2) of Cr.P.C.



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2. The case arises from the private complaint under Section 138 of the Negotiable Instruments Act, 1881. The trial Court had convicted the petitioner and sentenced to undergo six months Simple Imprisonment and to pay the cheque amount of Rs.3,00,000/- as compensation to the complainant, in default, to undergo three months Simple Imprisonment. Challenging this order passed in STC. No.2662 of 2022 on the file of the learned Metropolitan Magistrate, FTC-V, Saidapet, Chennai, the accused preferred an Appeal and the same is pending in C.A. No.729 of 2023 on the file of the learned Principal Sessions Judge, City Civil Court, Chennai and his Application for suspension of sentence dismissed for the reasons stated above.

3. Considering the facts of the case, the petitioner is permitted to surrender before the trial Court within 10 days from today and deposit a sum of Rs.60,000/- in STC. No.2662 of 2022 account. On such deposit, the trial Court shall allow the petition for recall of warrant, if any, to enable the petitioner to seek for suspension of sentence before the appellate Court. The petitioner herein shall within 5 days from then, appear before the lower appellate Court



where the appeal is pending and seek for suspension of sentence. If conviction warrant is not so far executed, the same shall not be executed for 15 days from today.

4. With the above observations, this Criminal Original Petition is disposed of.

01.12.2023

Internet : Yes/No

Index : Yes/No

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Note: Issue order copy on 06.12.2023

To

1. The Principal Sessions Judge,
City Civil Court, Chennai
2. The Metropolitan Magistrate, FTC-V,
Saidapet, Chennai.
3. The Public Prosecutor,
Madras High Court,
Madras.



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Dr.G.JAYACHANDRAN,J.

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