



Crl.O.P(MD) No.12129 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 05.07.2023

CORAM:

The Hon`ble Dr.Justice **D.NAGARJUN**

Crl.O.P.(MD)No.12129 of 2023

and

Crl.M.P.(MD)No.9570 of 2023

R.Senthilkumar

... Petitioner

Vs

T.Jahangeer

... Respondent

Prayer : Petition filed under Section 482 of Cr.P.C., to direct the learned II Additional District Judge, Tiruchirappalli, to number the petition filed by the petitioner in unnumbered Crl.M.P.No.--- of 2023 in Crl.M.P.No. 5244 of 2022 in Crl.A.No.131 of 2022 pending on the file of the learned II Additional District Judge, Tiruchirappalli.

For Petitioner : Mr.C.M.Arumugam

For Respondent : No Appearance

ORDER

This Criminal Original Petition is filed seeking for a direction to the learned II Additional District Judge, Tiruchirappalli, to number the



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petition filed by the petitioner in unnumbered Crl.M.P.No.--- of 2023 in Crl.M.P.No.5244 of 2022 in Crl.A.No.131 of 2022 pending on the file of the learned II Additional District Judge, Tiruchirappalli.

2. It is submitted by the learned counsel for the petitioner that the petitioner was found guilty in C.C.No.611 of 2020 as per the judgment dated 12.10.2022, on the file of the learned Judicial Magistrate No.1, Trichy, wherein he was sentenced to suffer simple imprisonment for a period of one year. Aggrieved by the same, he preferred an appeal in Crl.A.No.131 of 2022 and moved an application in Crl.M.P.No.5244 of 2022 dated 21.12.2022, seeking for suspension of sentence. The said sentence was suspended by the appellate Court in the following order :

" 3.This Hon'ble Court has granted an order of suspension on a condition as follows" in the result this petition is allowed subject to deposit a sum of Rs. 1,25,550/- being 20% of the compensation amount before the learned judicial magistrate No.1, Trichy, with a period of 60 days from the date of the order, failing which the petition stands dismissed since the amount of deposit is very meagre. Until then the execution of the sentence passed in C.C.No.611 of 2020 is suspended" and due to



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the reason of financial situation and ill-health condition, the petitioner / Appellant was unable to observe the above said condition and the same is beyond his control. "

3. The petitioner, as per the orders referred above, was permitted to deposit an amount of Rs.1,25,550/- being 20% of the compensation amount within a period of 60 days.

4. It is stated by the learned counsel for the petitioner that within 60 days, the petitioner could not secure the amount of Rs.1,25,550/- thereby filed an application seeking for extension of time. However the said petition was came to be returned with the following endorsement :

" The petitioner is filed this petition again with same relief which was already dismissed. Hence this petition is returned.

As per order dated 21.12.2022 in Crl.M.P.No. 5244/2022 in Crl.AP.No.131/2022 20% of the compensation amount not paid within period of 60 days from the date of order. Hence 21.02.2023 on that day amount not deposited petition dismissed.

Hence this petition returned."



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5. It is submitted by the learned counsel for the petitioner that the petitioner has never filed any similar petition earlier and that this endorsement of the learned II Additional District Judge dated 24.04.2023 is factually not correct.

6. I have perused the record including the written endorsement of the learned II Additional District Judge, Trichy. The petitioner submits that he has never moved any application earlier seeking extension of time and that there were no orders of dismissal of any such application. In case, if really, such application is filed earlier by the petitioner and was dismissed, the reference of that petitioner could have been given by the learned Judge, in the impugned order. There is no record before the Court that earlier application filed by the petitioner was dismissed.

7. Learned II Additional District Judge, Trichy, could have registered the petition and, if there are no merits, he could have dismissed the same, instead, the learned II Additional District Judge, Trichy, simply returned with an endorsement that earlier application was dismissed.



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8. Considering above, the petitioner is directed to submit the papers within a period of two weeks from the date of receipt of a copy of this order. On such submission, learned II Additional District Judge, Trichy, is hereby directed to receive the unnumbered petition, number the same and pass appropriate orders on merits as per law, by giving notices to respondent, if necessary.

9. This Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition stands closed.

05.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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DR. D.NAGARJUN, J.

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To

1.The II Additional District Judge, Tiruchirappalli.

ORDER
IN
Crl.O.P.(MD)No.12129 of 2023

Date: 05.07.2023