



CrI.O.P.(MD) No.19778 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

CrI.O.P.(MD)No.19778 of 2023

R.Jeyapal

... Petitioner

Vs.

M.Nagarajan

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed in Cr.M.P.No.unnumbered of 2023 in Cr.M.P.No.1773 of 2023 in C.A.No.unnumbered of 2023, dated 20.10.2023 on the file for the Principal Sessions Judge, Thoothukudi, by allowing this Criminal Original Petition and to direct the appellate Court to take criminal appeal on file along with the petition for suspension of sentence and consider on merits in accordance with law.

For petitioner : Mr.S.Ramasamy

For Respondent : Mr.G.Alwarsamy Sivakumar



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ORDER

This criminal original petition has been filed to set aside the order passed in Cr.M.P.No.unnumbered of 2023 in Cr.M.P.No.1773 of 2023 in C.A.No.unnumbered of 2023, dated 20.10.2023 on the file of the Principal Sessions Judge, Thoothukudi, by allowing this Criminal Original Petition and to direct the appellate Court to take criminal appeal on file along with the petition for suspension of sentence and consider on merits in accordance with law.

2.The petitioner was convicted and sentenced to undergo three months simple imprisonment by the trial Court. Apart from that he was also directed to pay the cheque amount of Rs.3,23,000/-. The above said judgment of conviction and sentence was passed on 20.12.2022, by the learned Judicial Magistrate, (Fast Track Court), Kovilpatti. Against which, the petitioner filed an appeal along with a petition seeking condonation of delay in filing the said appeal in CrI.M.P.No. 1773 of 2023, before the learned Principal District Judge, Tuticorin. That was allowed on condition of payment of Rs.2,000/- as cost on 29.08.2023. The cost was ordered to be paid on or before 13.09.2023. But, the petitioner has not paid the above said cost. When the matter was called on 14.09.2023, since the cost



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was not paid, it was dismissed. Thereafter, on 20.10.2023, the petitioner paid the above said conditional cost.

3.The learned counsel for the petitioner would further submit that after that the matter was compromised between the parties. But, because of the above said dismissal of Crl.M.P.No.1773 of 2023, now, he has been sent to the prison to suffer the sentence and detained in Central Prison, Palayamkottai, on 19.10.2023. To set aside the above said dismissal order passed in Crl.M.P.No.1773 of 2023, the petitioner filed another petition. It was returned by the appellate Court on 20.10.2023, stating that it is not maintainable. Challenging the above said return order, this petition has been filed on the ground that without hearing the petitioner, on the administrative side only, the above said order was passed.

4.The maintainability of the petition ought to have been decided by the appellate Court on its judicial side and not on the administrative side. In view of the settlement reached between the parties, which is also admitted by the respondent, who is also present before this Court along with his Advocate, the sentence of imprisonment imposed upon the petitioner by the trial Court alone be



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suspended till 27.11.2023. In the meantime, let the above said petition be represented before the appellate Court, namely the Principal District Court, Tuticorin. The learned Principal District Judge, Tuticorin, shall take cognizance of the matter and decide the same in view of the settlement reached between the parties. Let the petitioner be released from the Prison, on executing personal Bond of Rs.10,000/- (Rupees Ten Thousand only). Registry is directed to return the petition filed by the petitioner, under proper acknowledgement, enabling him to represent the same before the appellate Court.

5. Accordingly, this criminal original petition stands disposed of and the order passed in Cr.M.P.No.unnumbered of 2023 in Cr.M.P.No.1773 of 2023 in C.A.No.unnumbered of 2023, dated 20.10.2023 on the file for the Principal Sessions Judge, Thoothukudi, is hereby set aside.

07.11.2023

Index : Yes/No

Internet : Yes/No

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Note: Issue Order copy on 07.11.2023



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To

- 1.The Principal District Judge, Tuticorin.
- 2.The Judicial Magistrate, (Fast Track Court), Kovilpatti.



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G.ILANGOVAN. J.

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