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Crl.O.P.No.1028 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1028 of 2024

and

Crl.M.P.No.699 of 2024

Usman
S/o.B.Ansar

... Petitioner

Vs.

H.Akbar
S/o.Kuppu Raj

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 03.01.2024 in Crl.M.P.No.133 of 2024 in C.A.No.4 of 2024 on the file of Principal Sessions Judge, Chennai, against C.C.No.2003 of 2019 on the file of II Metropolitan Magistrate, Egmore, Chennai, pending disposal of the Crl.O.P.No. of 2024 on the file of this Court.

For Petitioner : Mr.V.K.Sathiamurthy

ORDER

This petition has been filed challenging the order passed by the Court below in Crl.M.P.No.133 of 2024 in Crl.A.No.4 of 2024, dated 03.01.2024, dismissing the application filed by the petitioner for suspending the sentence pending the criminal appeal.



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2. This Court has carefully considered submissions made by learned counsel for petitioner and the materials available on record.

3. The petitioner was convicted for offence u/s.499 IPC punishable u/s.500 IPC by learned II Metropolitan Magistrate, Egmore, through judgment dated 21.12.2023. On the date of judgment, the petitioner was not able to be present before the Court and he filed a petition u/s.317 Cr.P.C. to dispense with his appearance on the ground that his wife has been admitted at CMC Hospital, Vellore, to undergo a surgery. The trial Court rejected this petition by order dated 21.12.2023. The petitioner was sentenced to undergo one year simple imprisonment by the trial Court.

4. When the petitioner filed the criminal appeal before the Principal District and Sessions Court, Chennai, he also filed an application for suspension of sentence. The Court below has dismissed the application for suspension of sentence on the ground that the trial Court had rejected the application u/s.317 Cr.P.C. and had issued non-bailable warrant and since the same is pending, the suspension of sentence cannot be granted. Aggrieved by the same, the present petition has been filed before this Court.



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Taking into consideration the facts and circumstances of the case and the reasons that have been assigned by the petitioner for not being able to be present before the Court on the date of judgment, this Court disposes of the present petition in the following terms:

- (a) the petitioner shall surrender before the Court below on or before 29.01.2024 and file a bail application;
- (b) the Court below shall pass orders on the bail application on the same day by imposing necessary and reasonable conditions; and
- (c) the Court below shall dispose of the criminal appeal as expeditiously as possible.

Consequently, connected miscellaneous petition is closed.

22.01.2024

Note: Issue order copy by 23.01.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

1. The Principal Sessions Judge,
Chennai.

2. The II Metropolitan Magistrate,
Egmore, Chennai.



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N.ANAND VENKATESH, J.
gm

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