



WEB COPY



Crl.O.P.No.10151 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.10151 of 2024

1.Shanthi

2.Vittabai

... Petitioners

Vs.

1.State rep.by
The Inspector of Police,
G-7, Chetpet Police Station,
Chennai-600 031.
(Crime No.478 of 2013)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed in Crl.M.P.No.9986 of 2024 in C.A.No.241 of 2024 passed by the learned III Additional Sessions Judge, (Incharge of Principal Sessions Court) dated 28.03.2024 and order suspension of sentence for the petitioners till the disposal of appeal in C.A.No.241 of 2024, pending XXII Additional City Civil Court, Chennai

For Petitioners : Mr.M.L.Ramesh

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



CrI.O.P.No.10151 of 2024

ORDER

The petitioners herein been convicted by the trial Court on 27.02.2024 for offence under Sections 420, 468, 471 IPC r/w 120(b) IPC and Section 248(ii) IPC. The period of sentence was suspended by the trial court for 15 days, enabling the accused to prefer appeal if so advised.

2. The petitioner preferred appeal before the Sessions Court and same got numbered on 26.03.2024 as C.A.No.241 of 2024. The Miscellaneous Petition filed seeking suspension of sentence pending appeal has been dismissed by the lower appellate Court stating that the trial Court has suspended the sentence only for a period of 15 days. Whereas, the application for suspension of sentence before the lower appellate Court is listed after 15 days. Therefore, the possibility of trial Court issued conviction warrant against the petitioners. Therefore, the petition for suspension of sentence cannot be entertained.

3. The learned counsel appearing for the petitioner submits that no doubt that the trial Court initially suspended the sentence only for a period of 15 days from the date of limitation. This order passed by the trial Court on 27.02.2024 and therefore, the reasoning given by the lower



Crl.O.P.No.10151 of 2024

appellate Court dismissing the application for suspension of sentence is not sustainable.

4. This Court after perusing the records finds that since the suspension of sentence was extended for a period of 15 days from 27.02.2024, the reason stated for dismissing the Crl.M.P.No.9986 of 2024 is not maintainable. Therefore, the order passed by the lower appellate Court in Crl.M.P.No.9986 of 2024 is hereby set aside. The lower appellate Court is directed to restore the application and consider the application and pass an order on merits.

5. With the above direction, this Criminal Original Petition is allowed.

26.04.202

Note: Issue Today

Index : Yes/No

Neutral Citation : Yes/No

rpl

Dr.G.JAYACHANDRAN,J.

rpl



Crl.O.P.No.10151 of 2024

To

WEB COPY

1.The III Additional Sessions Judge, (Incharge of Principal Sessions Court), City Civil Court, Chennai.

1.The Inspector of Police,
G-7, Chetpet Police Station,
Chennai-600 031.

2.The Public Prosecutor,
High Court of Madras, Chennai.

Crl.O.P.No.10151 of 2024

26.04.2024