



WEB COPY



CrL.OP.No.14513 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrL.OP.No.14513 of 2024

1. M/s.Vasupratha Constructions
by its Proprietor,
Rathimathan
No.156, Redhills Main Road,
Ram Nagar, Ambattur,
Chennai-600 053.

2. R.Rathimathan
Proprietor,
M/s.Vasupratha Constructions

... Petitioner

Vs.

Arulvel

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the return docket order dated 22.04.2024 in C.A.S.R.No.5344/2024 on the file of the Principal District and Sessions Court, Salem and take the petition on file.

For Petitioner : Mr.B.Dinesh Kumar



CrL.OP.No.14513 of 2024

ORDER

WEB COPY This Criminal Original Petition is filed seeking to set aside the return docket order dated 22.04.2024 in C.A.S.R.No.5344/2024 on the file of the Principal District and Sessions Court, Salem.

2. The petitioner herein was found guilty and convicted for the offences under Section 138 of Negotiable Instruments Act in absentia has preferred an appeal before the Principal District and Sessions Court, Salem along with application for suspension of sentence.

3. The Appellate Court had returned the appeal papers with the following endorsements:

i) Since Non Bailable Warrant is pending against the petitioner/accused, petition under Section 389(1) of Cr.P.C is not maintainable in this Court.

ii) Affidavit to be attached with petition under Section 389(1) of Cr.P.C.

iii) Connected petition was returned, hence the Appeal Memorandum is also returned.



CrL.OP.No.14513 of 2024

4. Pendency of Non Bailable Warrant cannot be a bar for an

Appellate Court to receive appeal filed under Section 389(1) of Cr.P.C.

The presence of the accused will be necessary, in case, he seeks for recall of warrant or suspension of sentence. Even an absconding accused has a right to prefer appeal which is a right conferred under law, despite his abscondence. Therefore, to meet the ends of justice, the petitioner herein shall represent the appeal papers for suspension of sentence. He should appear in person and deposit 20% of the compensation amount and seek for suspension of sentence. On such deposit, the application for suspension of sentence to be considered and appropriate order shall be passed in accordance with law.

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

21.06.2024

Vv

Note: The Registry is directed to return the original papers to enable the petitioners to represent it before the lower Appellate Court.



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To

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1. The Metropolitan Magistrate-XXVI,
Egmore
2. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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