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CrI.O.P.No.13738 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.13738 of 2024

Dr.R.Manivannan.

... Petitioner/Appellant/Accused

/versus/

Mr.S.Krishna Kumar.

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records of the Learned XXIII Additional Sessions Judge/Vacation Sessions Judge, Chennai and set aside the order passed by the Learned XXIII Additional Sessions Judge/Vacation Session Judge, Chennai made in CrI.M.P.No.14336 of 2024 dated 22.05.2024 and to suspend the conviction and sentence and compensation of cheque amount passed in STC.No.187 of 2023 by the Learned the Metropolitan Magistrate, Fast Track Court, Magisterial Level-II Allikulam, Chennai by its judgment and order dated 07.05.2024.

For Petitioner : Mr.S.Arivazhagan

ORDER

The petitioner herein has been convicted for the offence under Section 138 of N.I Act. He was sentenced to undergo six months S.I and to pay



CrI.O.P.No.13738 of 2024

Rs.18,08,000/- as compensation to the complainant, in default, to undergo two months S.I.

2. The accused was not present on the date of judgment and thereafter, he has moved the appeal, challenging the judgment of conviction and sentence. Along with appeal, he has filed application for suspension of sentence. The said application was not entertained by the trial Court and it was dismissed on the ground that the petitioner has not surrendered before the trial Court and also not ready to surrender before the Appellate Court. Once the conviction warrant is issued, the suspension of sentence cannot be entertained, unless and until, the persons convicted is secured.

3. Challenging the above order, the present Criminal Original Petition is filed.

4. The Learned Counsel appearing for the petitioner submits that the petitioner will surrender before the Trial Court and pay 20% of the compensation amount. Further, the Learned Counsel submits that taking note of the above fact the warrant may be recalled and application for suspension of sentence before the trial Court may be considered in accordance with law.



Cr.O.P.No.13738 of 2024

5. In view of the above submission, this Criminal Original Petition

is disposed of, directing the petitioner herein to surrender before the trial Court and seek for recall of warrant by depositing 20% of the compensation amount. On such deposit, the trial Court shall stay the execution of the warrant for the period of 7 days. In the meanwhile, the petitioner shall move the Lower Appellate Court for suspension of sentence and seek for appropriate remedy.

03.07.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

Copy to:-

1.The XXIII Additional Sessions Judge/Vacation Sessions Judge, Chennai.



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Dr.G.JAYACHANDRAN, J.

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