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CrI.O.P.No.14043 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM

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

CrI.O.P.No.14043 of 2024

A.Ravi

... Petitioner

Vs.

Moonstar lines Pvt.Ltd.,
Rep.by Mohammed Ibrahim

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order of CrI.M.P.No.14694 of 2024 in CrI.A.No.360 of 2024 on the file of the Principal Sessions Court, Chennai on 03.06.2024 in the interest of justice.

For Petitioner : Mr.E.Jayasankar

ORDER

The petitioner herein found guilty for offence under Section 138 of Negotiable Instruments Act had preferred appeal and also sought for suspension of sentence.

2. The lower appellate Court had dismissed the application seeking suspension of sentence on the ground that the trial Court has convicted the petitioner on 05.03.2024 and suspended the sentence for 30 days to enable the petitioner to prefer appeal. The 30 days period expired



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on 04.04.2024, whereas the application to suspend the sentence filed before the appellate Court 11 days after the expiry of the date. Since warrant pending against the accused, he has to surrender before the Court for further orders and without surrender and physical appearance, petition for suspension of sentence cannot be granted. The reasoning given by the Court below is under challenge in this petition filed under Section 482 of Cr.P.C.

3. The reasoning given by the lower appellate Court is legally sustainable. The person who is convicted and obtained suspension of sentence by the Court which has convicted him, has to get further relief from the appellate Court before expiry of period granted. Whereas in this case, the application for suspension of sentence filed after the expiry of the period of 30 days and further, the petitioner has not surrendered before the lower appellate Court for considering the application of suspension of sentence pending appeal. Therefore, this Criminal Original Petition is disposed of with direction to the petitioner herein to appear before the lower appellate Court and seek for relief. On such appearance the lower appellate Court shall consider the prayer in accordance with law.



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WEB COPY 4. With the above observation, this Criminal Original Petition is disposed of.

18.06.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

The Principal Sessions Court, Chennai

Dr.G.JAYACHANDRAN,J.

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